

**ZB# 99-45**

**Vilma Lee Hansen /  
Norbert Noe**

**58-4-8**

Prelim.

Oct. 25, 1999.

Copy of contract &

Notice to Paper 4/8/99.

Public Hearing:

Nov. 22, 1999.

Granted. 5-0.

Refund: \$189.50.

#99-45- Hansen, Lee / Noe

Area. #58-4-8.

Non-Forfeited - Carbonless - 51654-NCR Duplicate - 51657-NCL TriPLICATE

DATE November 8, 1979 **RECEIPT** 082244

RECEIVED FROM Kenneth D. Johnson P.C.

Address Fifty and 00/100 DOLLARS \$ 50.00  
FOR Zoning Board # 99-45

ACCOUNT		HOW PAID	
BEGINNING BALANCE		CASH	96.68
AMOUNT PAID		CHECK	50.00
BALANCE DUE		MONEY ORDER	

Town Clerk

Dorothy H. Hanson

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Hansen, Vilma Lee

FILE# 99-45

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

INTERPRETATION: \$150.00

AREA X

USE       

APPLICATION FOR VARIANCE FEE ..... \$ 50.00

*paid ck  
#9668*

ESCROW DEPOSIT FOR CONSULTANT FEES ..... \$ 300.00

*#9669  
on 11/8/99.*

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 10/25/99 \$ 22.50

2ND PRELIMINARY- PER PAGE 11/22/99 \$ 18.00

3RD PRELIMINARY- PER PAGE ..... \$       

PUBLIC HEARING - PER PAGE ..... \$       

PUBLIC HEARING (CONT'D) PER PAGE ..... \$       

TOTAL ..... \$ 40.50

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM. MEETING: 10/25/99 ..... \$ 35.00

2ND PRELIM. 11/22/99 ..... \$ 35.00

3RD PRELIM. .... \$       

PUBLIC HEARING ..... \$       

PUBLIC HEARING (CONT'D) ..... \$       

TOTAL ..... \$ 70.00

MISC. CHARGES:

..... \$       

TOTAL ..... \$ 110.50

LESS ESCROW DEPOSIT ..... \$ 300.00

(ADDL. CHARGES DUE) ..... \$       

REFUND DUE TO APPLICANT . \$ 189.50

Date 12/20, 197

# TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO Kenneth D. Johnson, P.C. DR.

P.O. Box 272, Walden, NY 12586.

Re: ZBA #99-45.

[illegible]

KENNETH D. JOHNSON, P.C.  
ATTORNEY AT LAW  
5 BANK STREET  
P.O. BOX 272  
WALDEN, NEW YORK 12586

REMITTANCE ADVICE					

50-7131/2219

9669

Three hundred &  $\frac{00}{100}$

TO THE ORDER OF

Town of New Windsor

DOLLARS

CHECK AMOUNT

300 00

ATTORNEY'S ACCOUNT

WALDEN SAVINGS BANK  
2 BANK STREET, WALDEN, NEW YORK 12586

ZBA #99-45

⑆221971316⑆06 90 003523⑆ 9669

KENNETH D. JOHNSON, P.C.  
ATTORNEY AT LAW  
5 BANK STREET  
P.O. BOX 272  
WALDEN, NEW YORK 12586

REMITTANCE ADVICE					

50-7131/2219

9668

PAY  $\frac{50}{100}$

DATE

TO THE ORDER OF

11/1/99 Town of New Windsor

DOLLARS

CHECK AMOUNT

50 00

ATTORNEY'S ACCOUNT

WALDEN SAVINGS BANK  
2 BANK STREET, WALDEN, NEW YORK 12586

ZBA #99-45.

⑆221971316⑆06 90 003523⑆ 9668

In the Matter of the Application of

**VILMA LEE HANSEN**

**MEMORANDUM OF  
DECISION GRANTING  
AREA VARIANCE**

#99-45.

**WHEREAS, VILMA LEE HANSEN**, residing at 2264 Avon Del Vista, Corona, CA 91720, has made application before the Zoning Board of Appeals for a 10 ft. rear yard variance for an existing garage under Building Permit #4215 at 38 Beaver Brook Road, New Windsor, N. Y. in an R-4 zone; and

**WHEREAS**, a public hearing was held on the 22nd day of November, 1999 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

**WHEREAS**, Kevin Foley, Esq. appeared on behalf of the Application; and

**WHEREAS**, there were no spectators appearing at the public hearing; and

**WHEREAS**, a letter was received and filed at the public hearing from Richard J. Jaskiewicz objecting to the Application; and

**WHEREAS**, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

**WHEREAS**, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and in The Sentinel, also as required by law.

2. The evidence presented by the Applicant showed that:

(a) The property is a residential property consisting of a one-family home located in a neighborhood containing one-family homes.

(b) The garage has been in existence for approximately 11 years.

(c) When the garage was constructed it had a building permit but the Building Inspector's records do not indicate that any C.O. was ever granted.

(d) The existing garage was not built on top of any water or septic easement, or well or septic system.

(e) The existing garage does not create any ponding or collection of water or does it interfere with the course of drainage of any water.

(f) Since the garage has been constructed, no complaints, formal or informal have been made.

**WHEREAS,** The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to the Applicant which can produce the benefits sought.

3. The variance requested is substantial in relation to the Town regulations but nevertheless is warranted for the reasons listed above.

4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.

6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.

7. The requested variance is appropriate and is the minimum variance necessary and adequate to allow the Applicant relief from the requirements of the Zoning Local Law and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

**NOW, THEREFORE, BE IT**

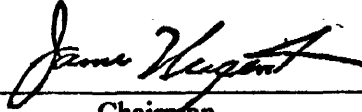
**RESOLVED,** that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for a 10 ft. rear yard variance for an existing garage at residence located at 38 Beaver Brook Road, New Windsor, N.Y. 12553, in an R-4 zone as sought by the Applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.



**BE IT FURTHER**

**RESOLVED**, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and Applicant.

Dated: February 14, 2000.

A handwritten signature in cursive script, appearing to read "James Negent", is written over a horizontal line.

Chairman

TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

# 99-45

Date: 11/8/99

I. Applicant Information:

- (a) Vilma Lee Harrison 2264 Aron Del Vista Corona CA 91720 (909) 735-3361  
(Name, address and phone of Applicant) (Owner)
- (b) David + Kristin Firman 31 Marlin Washingtonville NY 10992  
(Name, address and phone of purchaser or lessee)
- (c) Ken Johnson 5 Bank St Walden NY 12586 (914) 778-5525  
(Name, address and phone of attorney)
- (d) \_\_\_\_\_  
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- ☐ Use Variance ☐ Sign Variance
- ☒ Area Variance ☐ Interpretation

III. Property Information:

- (a) R-4 38 Beaver Brook Rd SB-4-8 2.0 Acres  
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? \_\_\_\_\_
- (c) Is a pending sale or lease subject to ZBA approval of this application? yes
- (d) When was property purchased by present owner? 6/27/1968
- (e) Has property been subdivided previously? \_\_\_\_\_
- (f) Has property been subject of variance previously? \_\_\_\_\_  
If so, when? \_\_\_\_\_
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? NO
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_, to allow: \_\_\_\_\_  
(Describe proposal) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(b) The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

See attached. Schedule 'D'

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes      No     .

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 18-1, Table of 201K-USE Regs., Col. 9.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area		
Min. Lot Width		
Reqd. Front Yd.		
Reqd. Side Yd.		
Reqd. Rear Yd. <u>10'</u>	<u>2'</u>	<u>10'</u>
Reqd. Street Frontage*		
Max. Bldg. Hgt.		
Min. Floor Area*		
Dev. Coverage* <u>    </u> %	<u>    </u> %	<u>    </u> %
Floor Area Ratio**		
Parking Area		

\* Residential Districts only

\*\* No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(You may attach additional paperwork if more space is needed)

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section \_\_\_\_\_, \_\_\_\_\_ Regs.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign	_____	_____	_____
Sign 3	_____	_____	_____
Sign	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

\_\_\_\_\_

\_\_\_\_\_

VII. Interpretation.

(a) Interpretation requested of New Windsor Zoning Local Law, Section \_\_\_\_\_, Table of \_\_\_\_\_ Regs., Col. \_\_\_\_\_.

(b) Describe in detail the proposal before the Board:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or



(b) Variance: Granted (\_\_\_\_) Denied (\_\_\_\_)

(c) Restrictions or conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

Schedule 1

This is in response to the five factors considered in granting an area variance:

1. Since the structure in question was built in 1988 and already exists granting an area variance will cause no undesirable change or detriment to nearby properties.
2. Since the sale of the property can only move forward if the structure receives an area variance that is the only feasible option.
3. This is a request for a ten foot variance on the structure and under the circumstances (that unknown to the owner the structure was built on the property line and has existed there since 1988) is not substantial.
4. Again, since the structure already exists the granting of an area variance will not have an adverse effect or impact on the current physical or environmental condition of the neighborhood.
5. This problem was created unknowingly by the owner who only became aware of the problem upon trying to sell her home.

**ZONING BOARD OF APPEALS**

**October 25, 1999**

**AGENDA:**

**7:30 p.m. – Roll Call**

**Motion to accept minutes of the 9/13 and 9/27/99 meetings as written.**

**PRELIMINARY MEETING:**

- 1. HANSEN/NOE – Request for 10 ft. rear yard variance for existing garage at 38 Beaver Brook Road in an R-4 zone. (58-4-8).**
- 2. QUINN, JOHN – Request for use variance for two-family dwelling at Windsor Garden Drive (violation of site plan approval for single-family homes by P.B.) in R-5 zone. (38-1-1.1).**

**PUBLIC HEARING:**

- 3. WINDSOR ACADEMY – Request for 85 ft. side yard, 139 ft. 8 in. total side yard, 85 ft. rear yard and 4.18% developmental coverage to allow modular units on a permanent basis for classrooms at 271 Quassaick Avenue in an NC zone. (40-3-37).**

**Formal Decisions: (1) Wolf (2) Kadian (3) Barbera (4) Yonnone (5) Villa.**

**Pat 563-4630 – (office) or  
562-7107 (home)**



Date 12/13/99, 19.....

# TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

TO ..... Frances Roth  
168 N. Drury Lane ..... DR.  
Newburgh, N.Y. 12550

DATE			CLAIMED	ALLOWED
1/22/99		Zoning Board Mtg	75 00	
		Minutola - 3		
		Accettura - 5		
		Scaglione - 5		
		U6B Assoc. - 5		
		Hanson - 4 \$18.00		
		Maurice - 5		
		Misc - 2 -		
		29	130 50	
		James Vignati	205 50	

HANSON, VILMA LEE

MR. NUGENT: Request for 10 ft. rear yard variance for existing garage at 38 Beaver Brook Road in an R-4 zone.

Mr. Kevin Foley appeared before the board for this proposal.

MR. NUGENT: Is there anyone here except for you? Let the record show there is know one in the audience except the applicant.

MR. FOLEY: This structure has been up for since 1988 and it's right on the lines, so we would need the complete ten foot variance, I do have a picture of it, it's a garage.

MR. NUGENT: Building's already up?

MR. FOLEY: Building's been up since 1988.

MR. KRIEGER: During that time, have you ever had any complaints, formal or informal, about it?

MR. FOLEY: No, you can see the property next to it is vacant so--

MR. KANE: Create any water hazards, water runoff whatsoever in the area?

MR. FOLEY: Not that I'm aware of.

MS. BARNHART: For the record, we did send out 32 notices to adjacent property owners on November 8, 1999 and a few of them came back.

MR. TORLEY: You're sure you don't encroach on the property?

MR. FOLEY: Yeah, it's right on the line.

MR. NUGENT: I'd like to read something into the record that I received and it's addressed to "Dear Pat: Per our phone conversation, there is a discrepancy with Mrs. Hanson's garage at its location. I had a

subdivision done in 1997 filed at 4/25/97 and my engineer, Raimondi Engineering, noted the garage on Mrs. Hanson's property is encroaching on my property. My lot number at 28 Beaver Brook Road is Section 58, Block 4, Lot 6, I do have a problem with this garage being built on my property without the proper permits from the Town of New Windsor and I am opposed to this appeal." Evidently, he doesn't know that the garage is already there.

MR. TORLEY: So we've got a discrepancy on the survey?

MR. NUGENT: Well, discrepancy on the survey evidently somebody did.

MS. BARNHART: Building inspector is aware, I gave him a copy of this.

MR. BABCOCK: Yeah, we asked them to get a survey so that we would know whether there's an encroachment or not and I have the original here in the file. Mr. Eustance is doing the survey which he's the surveyor, he's showing that it's on the property line based on that, that's why we wrote the denial up.

MR. NUGENT: That he needs ten feet.

MR. TORLEY: If there's, I assume that the gentleman wrote the letter has his own survey saying it's over the line.

MR. BABCOCK: Apparently, yeah.

MR. TORLEY: So, until that's resolved, I don't know how we can grant a variance.

MR. KRIEGER: Yes, you can because I was just going to point out, the Zoning Board of Appeals is not the place where that argument is going to be resolved. That argument, if it is not resolved by agreement, has to be resolved in Supreme Court. This board doesn't have the power either way to decide that question. So, the applicant should be aware if the board grants the variance, it doesn't mean that they have permission to keep it there to encroach on the other person's

property, if in fact that's what's going on. By the same token, if they deny or if it denies the variance, it doesn't mean that it's encroaching, it's other than making aware of it, it's basically not the business of the Zoning Board of Appeals to decide that kind of question.

MR. TORLEY: So we could grant him a ten foot side yard variance?

MR. KRIEGER: Yes.

MR. TORLEY: If his garage is on the other you said.

MR. KRIEGER: Falls under the time honored legal principle of tough muffins.

MR. REIS: So we vote on this based on the fact that the information that we have from the applicant is accurate and the information provided by the neighbor is incorrect?

MR. KRIEGER: Actually, you don't have to reach the question whether it's absolutely accurate or inaccurate, simply beyond.

MR. REIS: Based on the information provided.

MR. TORLEY: If you grant him a ten foot side yard variance, that's it.

MR. NUGENT: Ten foot side yard variance period, based on the information that we have. Is there any further questions? I'll accept a motion.

MR. TORLEY: Mr. Chairman, I move that we grant Ms. Hanson her requested variance for 10.0 foot rear yard variance.

MR. MCDONALD: Second it.

ROLL CALL

MR. KANE	AYE
MR. MCDONALD	AYE

November 22, 1999

23

MR. REIS	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. FOLEY: Thank you.

To: Pat Barnhart

Fr: Richard Jaskiewicz

Re: Zoning Appeal No. 45  
Vilma Lee Hanson

Dear Pat,

As per our phone conversation, there is a discrepancy with Ms Hansons garage in its location.

I had a subdivision done in 1997 filed 4/25/97 and my engineers (Raimondi Engineering) noted the garage

On Ms. Hansons property is encroaching my property. My lot # at 28 Beaver Brook Rd is: SEC 58-BLK4

LOT-6. I do have a problem with this garage being built on my property without the proper permits

From the town of New Windsor and am opposed to this appeal.

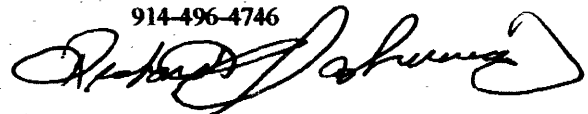
Very truly yours,

Richard J. Jaskiewicz

Beaver Brook Rd

New Windsor N.Y. 12553

914-496-4746



Rec'd.  
26A 11/22/99  
(PAG) Rof

cc: B.G.  
Frank Hise

**PUBLIC NOTICE OF HEARING**

**ZONING BOARD OF APPEALS**

**TOWN OF NEW WINDSOR**

**PLEASE TAKE NOTICE** that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 45

Request of Vilma Lee Hanson

for a VARIANCE of the Zoning Local Law to Permit:

Existing garage with less than the allowable rear  
yard.

being a VARIANCE of Section 48-12 Bulk-use cd. g.

for property situated as follows:

38 Beaver Brook Road, Salisbury Mills, New Windsor, N.Y.

known and designated as tax map Section 58, Blk. 4 Lot 8

**PUBLIC HEARING** will take place on the 22nd day of November, 1999, at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent.  
Chairman

*Prelim.*  
*Oct. 25, 1999.*  
*#99-45*

OFFICE OF THE BUILDING INSPECTOR  
TOWN OF NEW WINDSOR  
ORANGE COUNTY, NEW YORK

**NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION**

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (914)563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

DATE: 9/9/99

APPLICANT: Norbert Noe  
81 East Main Street  
Washingtonville, New York 10922

*Hansen, Lee (owner)*

*Ken Johnson Joley*  
*Atty. Kern*  
*778-5525.*

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE:

FOR : Building Permit #4215

LOCATED AT: 38 Beaver Brook Road

ZONE: R-4

DESCRIPTION OF EXISTING SITE: 58-4-8

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing garage was not installed with a minimum of 10' set-back as described on Building Permit #4215.

*[Signature]*  
BUILDING INSPECTOR



PERMITTED 10'

PROPOSED OR  
AVAILABLE:

VARIANCE  
REQUEST:

ZONE:R-4      USE: 48-14-A-1-B

MIN. LOT AREA:

MIN LOT WIDTH:

REQ'D.. FRONT YD:

REQ'D. SIDE YD:

REQD. TOTAL SIDE YD:

REQ'D REAR YD:                      0'

10'

REQ'D FRONTAGE:

MAX. BLDG. HT.:

FLOOR AREA RATIO:

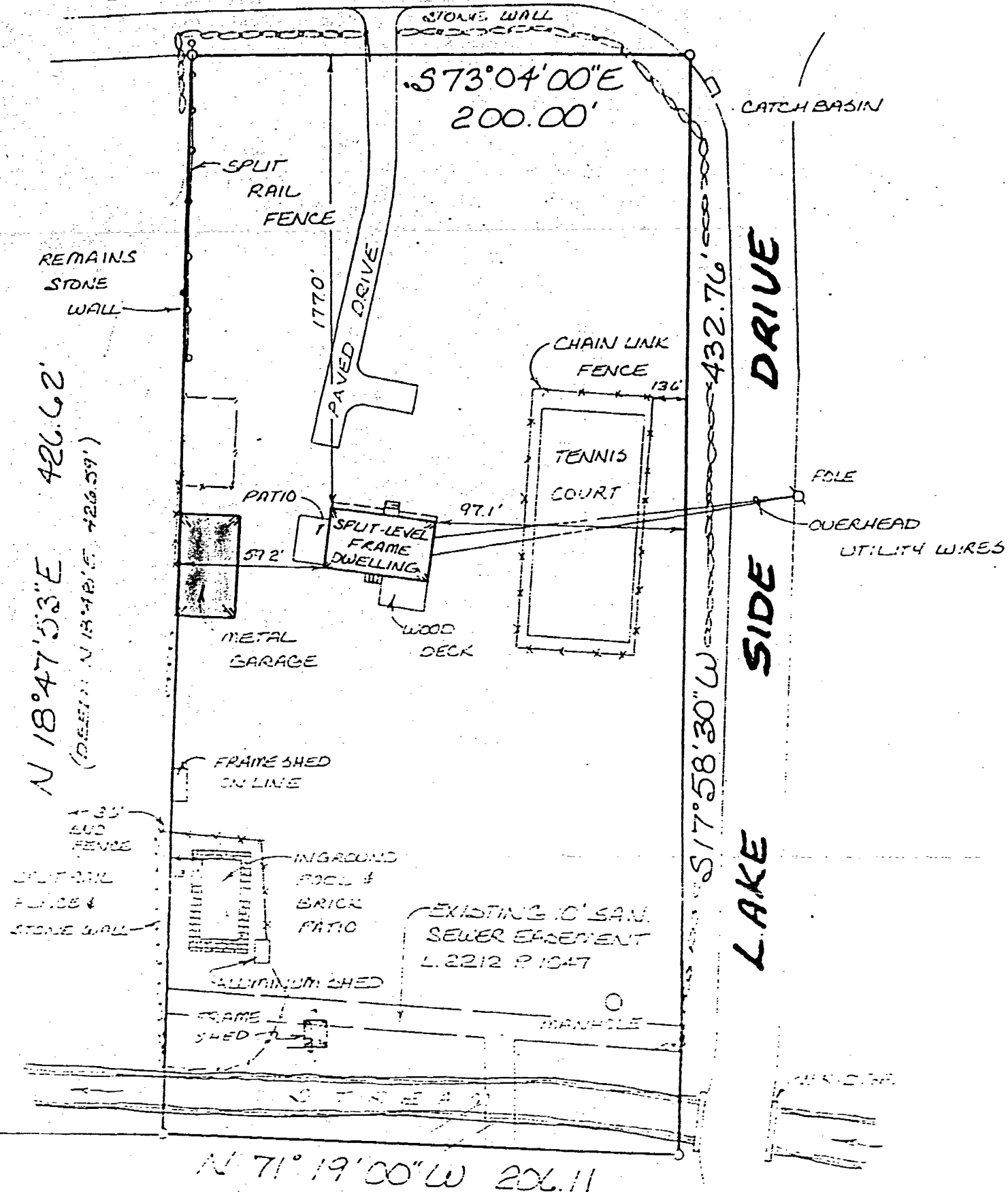
MIN. LIVABLE AREA:

DEV. COVERAGE:

cc: Z.B.A., APPLICANT, FILE ,W/ ATTACHED MAP

# BEAVER BROOK ROAD

N



NIF DONKER

SEC. 23 BUK. 4 LOT 7

L 1471 P 27

N 18°47'53\"E 426.62'  
(DEED: N 13°48'E 426.59')

MANHOLE

AREA = 2.0+ ACRES

NIF TRICE

SEC. 28 BUK. 4 LOT 9

L 1590 P 74

# MAP OF SURVEY

FOR

## KRISTIN M. & DAVID K. FURMAN, SR.

TOWN OF NEW WINDSOR  
SCALE: 1"=50'

ORANGE CO., N.Y.  
AUGUST 09, 1999

IT IS HEREBY CERTIFIED THAT THIS SURVEY WAS PREPARED IN ACCORDANCE  
WITH THE EXISTING CODE OF PRACTICE FOR LAND SURVEYS ADOPTED BY THE  
NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS, INC.

**CERTIFIED TO:** ULSTER SAVINGS BANK, ITS SUCCESSORS  
and/or ASSIGNS.

FIDELITY NATIONAL TITLE INSURANCE COMPANY.

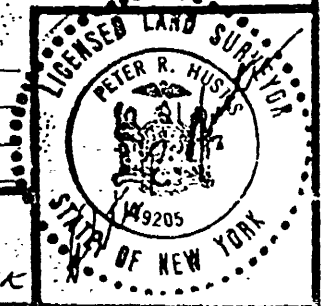
DAVID K. FURMAN, SR. & KRISTIN M. FURMAN.

VILMA-LEE HANSEN

JOB No. 99:022-B

### PETER R. HUSTIS, L.L.S.

33 HENRY STREET, BEACON, NEW YORK • P.O. BOX 3311, NEWBURGH, NEW YORK



SECTION 57

SECTION 57

SECTION 57

SECTION 57

SECTION 59

SECTION 60

ALL WASHINGTONVILLE SCHOOL DISTRICT  
ALL SALISBURY MILLS FIRE DISTRICT

Prepared by  
**AERO SERVICE CORPORATION**  
DIVISION OF LITTON INDUSTRIES  
400 WEST 10TH ST. PHILADELPHIA, PA. 19106

**FOR TAX PURPOSES ONLY**  
NOT TO BE USED FOR CONVEYANCE

LEGEND			
STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO.	FILED PLAN BLOCK NO.
CITY, TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL NO.	FILED PLAN LOT NO.
BLOCK & SECTION LINE	MATCH LINE	AREA	STATE HIGHWAY
SPECIAL DISTRICT LINE	STREAMS	DIMENSIONS	COUNTY HIGHWAY
PROPERTY LINE			TOWN ROADS

ORANGE COUNTY~NEW YORK

Photo No. 8-498,499 Date of Map: 9-24-57  
Date of Photo: 3-1-55 Date of Revision: 3-1-57

Scale: 1" = 100'

TOWN OF NEW WINDSOR

Section No. 58

**ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR  
COUNTY OF ORANGE : STATE OF NEW YORK**

**In the Matter of the Application for Variance of**

Vilma Lee Hanson

**Applicant.**

# 99-45

**AFFIDAVIT OF  
SERVICE BY  
MAIL**

**STATE OF NEW YORK)**  
**) SS.:**  
**COUNTY OF ORANGE)**

**PATRICIA A. BARNHART, being duly sworn, deposes and says:**

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, Windsor, N. Y. 12553.

That on 11/6/99, I compared the 32 addressed envelopes containing the Public Hearing Notice pertinent to this case with the certified list provided by the Assessor regarding the above application for a variance and I find that the addresses are identical to the list received. I then mailed the envelopes in a U.S. Depository within the Town of New Windsor.

Patricia A. Barnhart  
Patricia A. Barnhart

Sworn to before me this  
 \_\_\_\_ day of \_\_\_\_, 19\_\_.

**Notary Public**



# Town of New Windsor

555 Union Avenue  
New Windsor, New York 12553  
Telephone: (914) 563-4631  
Fax: (914) 563-4693

## Assessors Office

October 29, 1999

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Kevin Foley  
Walden, NY 12586

RE: 58-4-8  
Owner: Vilma Lee Hanson

Dear Mr. Foley:

Please be advised that the attached list of properties are within five hundred (500) feet of the above referenced property.

The charge for this service is \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk's Office.

Sincerely,

Leslie Cook  
Sole Assessor

/lrd  
Attachments

Cc: Pat Barnhart, ZBA

John and Marie Capecchi  
57 Beaver Brook Road  
New Windsor, NY 12553

Edward & Eleni & Joseph Hanley  
60 Lakeside Drive  
New Windsor, NY 12553

Edward Jr. and Dorothy Nixon  
P.O. Box 41  
Salisbury Mills, NY 12577

David and Pamela Boone  
90 Lakeside Drive  
New Windsor, NY 12553

Gary and Theresa Gawricki  
58 Lakeside Drive  
New Windsor, NY 12553

Gerald and Maureen McHugh  
35 Beaver Brook Road  
New Windsor, NY 12553

Xhavid Nimoni  
247 W. 87<sup>th</sup> Street  
New York, NY 10024

Elaine Schiavone  
35 Vascello Road  
New Windsor, NY 12553

John and Rosaleen Poje  
55 Beaver Brook Road  
New Windsor, NY 12553

Richard and Jean Mycka  
56 Beaver Brook Road  
New Windsor, NY 12553

Norwest Mortgage, Inc.  
413 Lakeside Drive  
New Windsor, NY 12553

William and Rory Marcus  
262 Lake Road  
Salisbury Mills, NY 12577

Vincent and Joan Coviello  
61 Beaver Brook Road  
New Windsor, NY 12553

Beaver Dam Lake Protection and  
Rehabilitation District  
C/O Dept. of Public Works  
Route 17M  
Goshen, NY 10924

James III and Robin Rashford  
10 Beaver Brook Road  
New Windsor, NY 12553

Vincent and Rose Coviello  
30 Keats Avenue  
Hartsdale, NY 10530

Alan Deyo  
21 Beaver Brook Road  
New Windsor, NY 12553

Daniel and Eileen Schug  
14 Beaver Brook Road  
New Windsor, NY 12553

Edward and Shirley Mann  
67 Beaver Brook Road  
New Windsor, NY 12553

Christopher and Valerie Davey  
27 Beaver Brook Road  
New Windsor, NY 12553

Maria Donker  
20 Beaver Brook Road  
New Windsor, NY 12553

Joseph Lovano  
Judith Silverman  
66 Beaver Brook Road  
New Windsor, NY 12553

Mark G. Carey  
436 Beaver Brook Road  
New Windsor, NY 12553

Christine Donker  
Richard Jaskiewicz  
28 Beaver Brook Road  
New Windsor, NY 12553

John and Mary Hyde  
62 Lakeside Drive  
New Windsor, NY 12553

Mark and Maxine Goulet  
19 Hill View Drive  
New Windsor, NY 12553

Stanley and Irene Mroz  
75 Lakeside Drive  
New Windsor, NY 12553

Darryl Madison  
68 Lakeside Drive  
New Windsor, NY 12553

Michael and Donna Marie Cacamis  
9 Hill View Drive  
New Windsor, NY 12553

County of Orange F/B/O Beaver Dam Lake  
Protection and Rehabilitation District  
265 Main Street  
Goshen, NY 10924

Thomas and Julie Sandri  
65 Lakeside Drive  
New Windsor, NY 12553

Daut Bajrushi  
345 E. 81<sup>st</sup> Street  
New York, NY 10028



Date ..... 10/27/19 ....., 19.....

# TOWN OF NEW WINDSOR

**TOWN HALL, 555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553**

TO ..... Frances Roth ..... DR.

.....Frances Roth  
168 N. Drury Lane  
Newburgh, N.Y. 12550

DATE			CLAIMED	ALLOWED
10/20/99	Zoning Board Mtg		75 00	
	Misc. 2			
	Hansen - Ave - 5	22.50.		
	Quinn - 11			
	Windsor Academy - 18			
		<u>36</u>	<u>162 00</u>	
			<u>237 00</u>	

PRELIMINARY MEETING:

HANSEN/NOE

MR. NUGENT: Request for 10 ft. rear yard variance for existing garage at 38 Beaver Brook Road in an R-4 zone.

Kevin Foley, Esq. appeared before the board for this proposal.

MR. FOLEY: Actually, I was just coming for instruction. We have the survey and it shows that the garage is right on the line and I wanted to know what we needed to do to get it corrected.

MR. TORLEY: On the line? How recent is the survey?

MR. FOLEY: Should be pretty recent.

MR. TORLEY: What relation are you to this?

MR. FOLEY: I'm with Ken Johnson's office representing the applicant, she's trying to sell her house.

MR. REIS: That's what brings you to the Zoning Board, a the sale of the house, the C.O.?

MR. FOLEY: Yes.

MR. NUGENT: This is a corner lot, right?

MR. BABCOCK: Yes.

MR. NUGENT: That's why.

MR. FOLEY: The building is, looks like it's bordering on the neighbor's property.

MR. NUGENT: Yeah, but what I'm saying if you have a street here and street here, this is a corner lot so therefore, you have two front yards with this house, that's why they're putting that garage in the rear yard.

MR. FOLEY: Right.

MR. TORLEY: But the tennis court's in the front yard.

MR. NUGENT: No, it's in the side yard.

MR. TORLEY: Two front yards.

MR. NUGENT: Oh, tennis courts, you're right.

MR. TORLEY: How high is the fence on the tennis court?

MR. FOLEY: They had to install a new fence to get a C.O. for the tennis.

MR. NUGENT: Are you aware of this site?

MR. BABCOCK: Yes.

MR. NUGENT: Give us a little background.

MR. TORLEY: Doesn't he need a variance for the fence?

MR. BABCOCK: No, it's 4 foot high, they had a 6 foot fence, we told them they'd need a variance, they took that out and I didn't know they installed a new one.

MR. TORLEY: I've never seen a tennis court with a 4 foot fence.

MR. BABCOCK: That's what they decided to do.

MR. NUGENT: Tennis court would be closer to the road than the principal building?

MR. BABCOCK: Yeah, it's actually, you know, it's an area of blacktop and we've never dealt with that before.

MR. TORLEY: Just the fence would be the problem?

MR. BABCOCK: Yeah.

MR. NUGENT: Well then does he need a side or rear yard?

MR. BABCOCK: We're saying rear yard.

MR. NUGENT: For accessory structure.

MR. BABCOCK: Yeah, I guess you could call it on a corner lot one yard has to be a rear yard and for his benefit, we give the back yard of the back of the house, the rear yard and side, that the side the shed is on is the side yard, but nevertheless, it has to be ten feet from any property line and if you feel it's a rear yard, we're saying it's a rear yard, excuse me, I'm sorry.

MR. TORLEY: Side area would be a smaller variance.

MR. BABCOCK: No, it's ten feet.

MR. NUGENT: Accessory structure is ten foot?

MR. BABCOCK: Yes.

MR. TORLEY: And the pool doesn't give us a problem, we're trying to do this so we make sure everything is settled at once.

MR. FOLEY: Good.

MR. BABCOCK: No, the pool is 13.1 feet.

MR. TORLEY: The only thing that would concern me is if the pole barn is actually on the property line or over it.

MR. BABCOCK: Well, we asked them to have it resurveyed and it came up that it was right on the property line.

MR. REIS: Jim, can I take a look at it?

MR. NUGENT: Yeah, sure.

MR. NUGENT: You say they are trying to sell the house?

MR. FOLEY: Yes, for about six months now.

MR. REIS: If I may make a comment, I'm familiar with

the property, I have nothing to do with the sale by the way and there's buffers around it, do you know of any complaints that they have had on this?

MR. FOLEY: No, in fact, the owner she thought it was at least ten feet from the edge of her property she was completely miffed.

MR. REIS: There's a tree line pretty much barriers around the perimeter.

MR. NUGENT: This, you said it was a pole barn, metal shed, you can't move it?

MR. FOLEY: No, there were sheds there previously but we had to take them down.

MR. NUGENT: That's permanent?

MR. FOLEY: This is permanent, yeah.

MR. TORLEY: Entertain a motion?

MR. NUGENT: Yes, I will.

MR. TORLEY: Mr. Chairman, I move we grant a public hearing for the Hansen/Noe request for rear yard variance for garage at 38 Beaver Brook Road.

MR. REIS: Second it.

ROLL CALL

MR. TORLEY	AYE
MR. REIS	AYE
MR. NUGENT	AYE

MR. KRIEGER: And those, if you would take that sheet, those are the criteria on which the state has determined that the zoning board must decide. So if you would address yourself to those criteria at the public hearing, that would be helpful.

MR. FOLEY: Okay, is the public hearing date on here?

October 25, 1999

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MR. KRIEGER: When you hand the application back, she'll schedule it.

MR. FOLEY: Thank you very much.

Jointly prepared by the Real Property Law Section of the New York State Bar Association, the New York State Land Title Association, the Committee on Real Property Law of the Association of the Bar of the City of New York and the Committee on Real Property Law of the New York County Lawyers' Association.

**WARNING: NO REPRESENTATION IS MADE THAT THIS FORM OF CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE COMPLIES WITH SECTION 5-702 OF THE GENERAL OBLIGATIONS LAW ("PLAIN LANGUAGE").**

**CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT**

**NOTE: FIRE AND CASUALTY LOSSES AND CONDEMNATION.**

This contract form does not provide for what happens in the event of fire, or other casualty loss or condemnation before the title closing. Unless different provision is made in this contract, Section 5-1311 of the General Obligations Law will apply. One part of that law makes a Purchaser responsible for fire and casualty loss upon taking possession of the Premises before the title closing.

**Residential Contract of Sale**

**Contract of Sale** made as of

VILMA LEE HANSEN f/k/a  
1999 BETWEEN VILMA LEE REYNOLDS

Address: 38 Beaver Brook Road, Salisbury Mills, New York 12577

Social Security Number/Fed. I. D. No(s):

hereinafter called "Seller" and

DAVID FURMAN AND KRISTIN FURMAN

Address: 31 Moore Lane, Washingtonville, New York 10992

Social Security Number/Fed. I. D. No(s):

hereinafter called "Purchaser".

**The parties hereby agree as follows:**

**1. Premises.** Seller shall sell and convey and Purchaser shall purchase the property, together with all buildings and improvements thereon (collectively the "Premises"), more fully described on a separate page marked "Schedule A", annexed hereto and made a part hereof and also known as:

Street Address: 38 Beaver Brook Road

Tax Map Designation: 58-4-8

T/O New Windsor

Together with Seller's ownership and rights, if any, to land lying in the bed of any street or highway, opened or proposed, adjoining the Premises to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. Seller shall deliver at no additional cost to Purchaser, at Closing (as hereinafter defined), or thereafter, on demand, any documents that Purchaser may reasonably require for the conveyance of such title and the assignment and collection of such award or damages.

**2. Personal Property.** This sale also includes all fixtures and articles of personal property now attached or appurtenant to the Premises, unless specifically excluded below. Seller represents and warrants that at Closing they will be paid for and owned by Seller, free and clear of all liens and encumbrances, except any existing mortgage to which this sale may be subject. They include, but are not limited to, plumbing, heating, lighting and cooking fixtures, bathroom and kitchen cabinets, mantels, door mirrors, switch plates and door hardware, venetian blinds, window treatments, shades, screens, awnings, storm windows, storm doors, window boxes, mail box, TV aerials, weather vane, flagpole, pumps, shrubbery, fencing, outdoor statuary, tool shed, dishwasher, washing machine, clothes dryer, garbage disposal unit, range, oven, refrigerator, freezer, air conditioning equipment and installations, wall-to-wall carpeting and built-ins not excluded below (*strike out inapplicable items*).

interest at the rate of \_\_\_\_\_ percent per annum, in monthly installments of \$ \_\_\_\_\_ which include principal, interest and escrow amounts, if any, and with any balance of principal being due and payable on \_\_\_\_\_

(b) To the extent that any required payments are made on the existing mortgage between the date hereof and Closing which reduce the unpaid principal amount thereof below the amount shown in paragraph 3(b), then the balance of the price payable at Closing under paragraph 3(d) shall be increased by the amount of the payments of principal. Seller represents and warrants that the amount shown in paragraph 3(b) is substantially correct and agrees that only payments required by the existing mortgage will be made between the date hereof and Closing.

(c) If there is a mortgagee escrow account, Seller shall assign it to Purchaser, if it can be assigned, and in that case Purchaser shall pay the amount in the escrow account to Seller at Closing.

(d) Seller shall deliver to Purchaser at Closing a certificate dated not more than 30 days before Closing signed by the holder of the existing mortgage, in form for recording, certifying the amount of the unpaid principal, the date to which interest has been paid and the amounts, if any, claimed to be unpaid for principal and interest, itemizing the same. Seller shall pay the fees for recording such certificate. If the holder of the existing mortgage is a bank or other institution as defined in Section 274-a of the Real Property Law ("Institutional Lender"), it may, instead of the certificate, furnish a letter signed by a duly authorized officer, employee or agent, dated not more than 30 days before Closing, containing the same information.

(e) Seller represents and warrants that (i) Seller has delivered to Purchaser true and complete copies of the existing mortgage, the note secured thereby and any extensions and modifications thereof, (ii) the existing mortgage is not now, and at the time of Closing will not be, in default, and (iii) the existing mortgage does not contain any provision that permits the holder of the mortgage to require its immediate payment in full or to change any other term thereof by reason of the sale or conveyance of the Premises.

Excluded from this sale are furniture and household furnishings and

**3. Purchase Price.** The purchase price is

\$ 169,600.00

payable as follows:

(a) on the signing of this contract, by Purchaser's check payable to the Escrowee (as hereinafter defined), subject to collection, the receipt of which is hereby acknowledged, to be held in escrow pursuant to paragraph 6 of this contract (the "Downpayment"):  
(\$500.00 paid on binder) \$ 5,500.00

(b) by allowance for the principal amount unpaid on the existing mortgage on the date hereof, payment of which Purchaser shall assume by joinder in the deed: \$

(c) by a purchase money note and mortgage from Purchaser to Seller: \$

(d) balance at Closing in accordance with paragraph 7:

\$ 164,100.00

**4. Existing Mortgage.** ~~(Delete if inapplicable)~~ If this sale is subject to an existing mortgage as indicated in paragraph 3(b) above:

~~(a) The Premises shall be conveyed subject to the continuing lien of the existing mortgage, which is presently payable, with-~~

**5. Purchase Money Mortgage.** ~~(Delete if inapplicable)~~ If there is to be a purchase money mortgage as indicated in paragraph 3(c) above:

(a) The purchase money note and mortgage shall be drawn by the attorney for Seller in the form attached or, if not, in the standard form adopted by the New York State Land Title Association. Purchaser shall pay at Closing the mortgage recording tax, recording fees and the attorney's fees in the amount of \$ for its preparation.

(b) The purchase money note and mortgage shall also provide that it is subject and subordinate to the lien of the existing mortgage and any extensions, modifications, replacements or consolidations of the existing mortgage, provided that (i) the interest rate thereof shall not be greater than percent per annum and the total debt service thereunder shall not be greater than \$ per annum, and (ii) if the principal amount thereof shall exceed the amount of principal owing and unpaid on the existing mortgage at the time of placing such new mortgage or consolidated mortgage, the excess be paid to the holder of such purchase money mortgage in reduction of the principal thereof. The purchase money mortgage shall also provide that such payment to the holder thereof shall not alter or affect the regular installments, if any, of principal payable thereunder and that the holder thereof will, on demand and without charge therefor, execute, acknowledge and deliver any agreement or agreements further to effectuate such subordination.

**6. Downpayment in Escrow.** (a) Seller's attorney ("Escrowee") shall hold the Downpayment for Seller's account in escrow in a segregated bank account at Walden Savings Bank Two Bank Street, Walden, NY 12586

until Closing or sooner termination of this contract and shall pay over or apply the Downpayment in accordance with the terms of this paragraph. Escrowee shall ~~(nor)~~ ~~(Delete if inapplicable)~~ hold the Downpayment in an interest-bearing account for the benefit of



the parties, If interest is held for the benefit of the parties, it shall be paid to the party entitled to the Downpayment and the party receiving the interest shall pay any income taxes thereon. If interest is not held for the benefit of the parties, the Downpayment shall be placed in an IOLA account or as otherwise permitted or required by law. The Social Security or Federal Identification numbers of the parties shall be furnished to Escrowee upon request. At Closing, the Downpayment shall be paid by Escrowee to Seller. If for any reason Closing does not occur and either party gives Notice (as defined in paragraph 25) to Escrowee demanding payment of the Downpayment, Escrowee shall give prompt Notice to the other party of such demand. If Escrowee does not receive Notice of objection from such other party to the proposed payment within 10 business days after the giving of such Notice, Escrowee is hereby authorized and directed to make such payment. If Escrowee does receive such Notice of objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by Notice from the parties to this contract or a final, nonappealable judgment, order or decree of a court. However, Escrowee shall have the right at any time to deposit the Downpayment and the interest thereon with the clerk of a court in the county in which the Premises are located and shall give Notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this paragraph, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that, although Escrowee is holding the Downpayment for Seller's account, for all other purposes Escrowee is acting solely as a stakeholder at their request and for their convenience and that Escrowee shall not be liable to either party for any act or omission on its part unless taken or suffered in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee. Seller and Purchaser jointly and severally agree to defend, indemnify and hold Escrowee harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee.

(c) Escrowee may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

(d) Escrowee acknowledges receipt of the Downpayment by check subject to collection and Escrowee's agreement to the provisions of this paragraph by signing in the place indicated on the signature page of this contract.

(e) Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Downpayment or any other dispute between the parties whether or not Escrowee is in possession of the Downpayment and continues to act as Escrowee.

~~party shall have any further rights against, or obligations or liabilities to, the other by reason of this contract, except that the Downpayment shall be promptly refunded to Purchaser and except as set forth in paragraph 27. If Purchaser fails to give notice of cancellation or if Purchaser shall accept a commitment that does not comply with the terms set forth above, then Purchaser shall be deemed to have waived Purchaser's right to cancel this contract and to receive a refund of the Downpayment by reason of the contingency contained in this paragraph:~~

**9. Permitted Exceptions.** The Premises are sold and shall be conveyed subject to:

(a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, provided that they are not violated by the existing buildings and improvements erected on the property or their use;

(b) Consents for the erection of any structures on, under or above any streets on which the Premises abut;

(c) Encroachments of stoops, areas, cellar steps, trim and cornices, if any, upon any street or highway;

(d) Real estate taxes that are a lien, but are not yet due and payable; and

(e) The other matters, if any, including a survey exception, set forth in a Rider attached.

**10. Governmental Violations and Orders.** (a) Seller shall comply with all notes or notices of violations of law or municipal ordinances, orders or requirements noted or issued as of the date hereof by any governmental department having authority as to lands, housing, buildings, fire, health, environmental and labor conditions affecting the Premises. The Premises shall be conveyed free of them at Closing. Seller shall furnish Purchaser with any authorizations necessary to make the searches that could disclose these matters.

~~(b) (Delete if inapplicable) All obligations affecting the Premises pursuant to the Administrative Code of the City of New York incurred prior to Closing and payable in money shall be discharged by Seller at or prior to Closing.~~

**11. Seller's Representations.** (a) Seller represents and warrants to Purchaser that:

(i) The Premises abut or have a right of access to a public road;

(ii) Seller is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this contract;

(iii) Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA");

(iv) The Premises are not affected by any exemptions or abatements of taxes; and

(v) Seller has been known by no other name for the past ten years, except

**7. Acceptable Funds.** All money payable under this contract, unless otherwise specified, shall be paid by:

(a) Cash, but not over \$1,000.00;

(b) Good certified check of Purchaser drawn on or official check issued by any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, unendorsed and payable to the order of Seller, or as Seller may otherwise direct upon not less than 3 business days notice (by telephone or otherwise) to Purchaser;

(c) As to money other than the purchase price payable to Seller at Closing, uncertified check of Purchaser up to the amount of \$ 500.00 ; and

(d) As otherwise agreed to in writing by Seller or Seller's attorney.

**8. Mortgage Contingency.** ~~(Delete if inapplicable)~~ The obligations of Purchaser hereunder are conditioned upon issuance on or before 19 (the "Commitment Date") of a written commitment from any Institutional Lender pursuant to which such Institutional Lender agrees to make a first mortgage loan, other than a VA, FHA or other governmentally insured loan, to Purchaser, at Purchaser's sole cost and expense, of \$ or such lesser sum as Purchaser shall be willing to accept, at the prevailing fixed rate of interest not to exceed or initial adjustable rate of interest not to exceed for a term of at least years and on other customary commitment terms, whether or not conditional upon any factors other than an appraisal satisfactory to the Institutional Lender. Purchaser shall (a) make prompt application to an Institutional Lender for such mortgage loan, (b) furnish accurate and complete information regarding Purchaser and members of Purchaser's family, as required, (c) pay all fees, points and charges required in connection with such application and loan, (d) pursue such application with diligence, (e) cooperate in good faith with such Institutional Lender to obtain such commitment and (f) promptly give Notice to Seller of the name and address of each Institutional Lender to which Purchaser has made such application. Purchaser shall comply with all requirements of such commitment (or of any other commitment accepted by Purchaser) and shall furnish Seller with a copy thereof promptly after receipt thereof. If such commitment is not issued on or before the Commitment Date, then, unless Purchaser has accepted a commitment that does not comply with the requirements set forth above, Purchaser may cancel this contract by giving Notice to Seller within 5 business days after the Commitment Date, in which case this contract shall be deemed cancelled and thereafter neither

(b) Seller covenants and warrants that all of the representations and warranties set forth in this contract shall be true and correct at Closing.

(c) Except as otherwise expressly set forth in this contract, none of Seller's covenants, representations, warranties or other obligations contained in this contract shall survive Closing.

**12. Condition of Property.** Purchaser acknowledges and represents that Purchaser is fully aware of the physical condition and state of repair of the Premises and of all other property included in this sale, based on Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this contract based solely upon such inspection and investigation and not upon any information, data, statements or representations, written or oral, as to the physical condition, state of repair, use, cost of operation or any other matter related to the Premises or the other property included in the sale, given or made by Seller or its representatives, and shall accept the same "as is" in their present condition and state of repair, subject to reasonable use, wear, tear and natural deterioration between the date hereof and the date of Closing (except as otherwise set forth in paragraph 16(f)), without any reduction in the purchase price or claim of any kind for any change in such condition by reason thereof subsequent to the date of this contract. Purchaser and its authorized representatives shall have the right, at reasonable times and upon reasonable notice (by telephone or otherwise) to Seller, to inspect the Premises before Closing.

**13. Insurable Title.** Seller shall give and Purchaser shall accept such title as any company duly licensed to

insure titles in NY State

shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, subject only to the matters provided for in this contract.

**14. Closing, Deed and Title.** (a) "Closing" means the settlement of the obligations of Seller and Purchaser to each other under this contract, including the payment of the purchase price to Seller, and the delivery to Purchaser of a Bargain & Sale W/CAC

deed in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The deed shall contain a covenant by Seller as required by subd. 5 of Section 13 of the Lien Law.

(b) If Seller is a corporation, it shall deliver to Purchaser at the time of Closing (i) a resolution of its Board of Directors authorizing the sale and delivery of the deed, and (ii) a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the transfer is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with that Section.

15. **Closing Date and Place.** Closing shall take place at the office of Kenneth D. Johnson, 5 Bank Street, Walden, or the purchasers lending institution

at 2:00 o'clock on/or about 7/15/99  
or, upon reasonable notice (by telephone or otherwise) by Purchaser, at the office of

16. **Conditions to Closing.** This contract and Purchaser's obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

(a) The accuracy, as of the date of Closing, of the representations and warranties of Seller made in this contract.

(b) The delivery by Seller to Purchaser of a valid and subsisting Certificate of Occupancy or other required certificate of compliance, or evidence that none was required, covering the building(s) and all of the other improvements located on the property authorizing their use as a single family dwelling at the date of Closing.

(c) The delivery by Seller to Purchaser of a duly executed and sworn affidavit (in form prescribed by law) claiming exemption of the sale contemplated hereby, if such be the case, under Article 31-B of the Tax Law of the State of New York and the Regulations promulgated thereunder, as the same may be amended from time to time (collectively the "Gains Tax Law"); or if such sale shall not be exempt under the Gains Tax Law, Seller and Purchaser agree to comply in a timely manner with the requirements of the Gains Tax Law and, at Closing, Seller shall deliver to Purchaser (i) an official return showing no tax due, or (ii) an official return accompanied by a certified or official bank check drawn on a New York State banking institution payable to the order of the New York State Department of Taxation and Finance in the amount of the tax shown to be due thereon. Seller shall (x) pay promptly any additional tax that may become due under the Gains Tax Law, together with interest and penalties thereon, if any, which may be assessed or become due after Closing, and/or execute any other documents that may be required in respect thereof, and (y) indemnify, defend and save Purchaser harmless from and against any of the foregoing and any damage, liability, cost or

(c) If there is a water meter on the Premises, Seller shall furnish a reading to a date not more than 30 days before Closing and the unfixed meter charge and sewer rent, if any, shall be apportioned on the basis of such last reading.

(d) If at the date of Closing the Premises are affected by an assessment which is or may become payable in annual installments, and the first installment is then a lien, or has been paid, then for the purposes of this contract all the unpaid installments shall be considered due and shall be paid by Seller at or prior to Closing.

(e) Any errors or omissions in computing apportionments or other adjustments at Closing shall be corrected within a reasonable time following Closing. This subparagraph shall survive Closing.

19. **Allowance for Unpaid Taxes, etc.** Seller has the option to credit Purchaser as an adjustment to the purchase price with the amount of any unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon to a date not less than five business days after Closing, provided that official bills therefor computed to said date are produced at Closing.

20. **Use of Purchase Price to Remove Encumbrances.** If at Closing there are other liens or encumbrances that Seller is obligated to pay or discharge, Seller may use any portion of the cash balance of the purchase price to pay or discharge them, provided Seller shall simultaneously deliver to Purchaser at Closing instruments in recordable form and sufficient to satisfy such liens or encumbrances of record, together with the cost of recording or filing said instruments. As an alternative Seller may deposit sufficient monies with the title insurance company employed by Purchaser acceptable to and required by it to assure their discharge, but only if the title insurance company will insure Purchaser's title clear of the matters or insure against their enforcement out of the Premises and will insure Purchaser's Institutional Lender clear of such matters. Upon notice (by telephone or otherwise), given not less than 3 business days before Closing, Purchaser shall provide separate certified or official bank checks as requested to assist in clearing up these matters.

21. **Title Examination; Seller's Inability to Convey; Limitations of Liability.** (a) Purchaser shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this contract or, if this contract is subject to the mortgage contingency set forth in paragraph 8, after a mortgage commitment has been accepted by Purchaser. Purchaser shall cause a copy of the title report and of any additions thereto to be delivered to the attorney(s) for Seller promptly after receipt thereof.

(b)(i) If at the date of Closing Seller is unable to transfer title to Purchaser in accordance with this contract, or Purchaser has other valid grounds for refusing to close, whether by reason of liens,

expense (including reasonable attorneys fees) may be suffered or incurred by Purchaser by reason of the nonpayment thereof. The provisions of this subparagraph (c) shall survive Closing.

(d) The delivery by Seller to Purchaser of a certification stating that Seller is not a foreign person, which certification shall be in the form then required by FIRPTA. If Seller fails to deliver the aforesaid certification or if Purchaser is not entitled under FIRPTA to rely on such certification, Purchaser shall deduct and withhold from the purchase price a sum equal to 10% thereof (or any lesser amount permitted by law) and shall at Closing remit the withheld amount with the required forms to the Internal Revenue Service.

(e) The delivery of the Premises and all building(s) and improvements comprising a part thereof in broom clean condition, vacant and free of leases or tenancies, together with keys to the Premises.

(f) All plumbing (including water supply and septic systems, if any), heating and air conditioning, if any, electrical and mechanical systems, equipment and machinery in the building(s) located on the property and all appliances which are included in this sale being in working order as of the date of Closing.

(g) If the Premises are a one or two family house, delivery by the parties at Closing of affidavits in compliance with state and local law requirements to the effect that there is installed in the Premises a smoke detecting alarm device or devices.

(h) The delivery by the parties of any other affidavits required as a condition of recording the deed.

**17. Deed Transfer and Recording Taxes.** At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the party required by law or by this contract to pay such transfer and/or recording tax, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing.

**18. Apportionments and Other Adjustments; Water Meter and Installation Assessments.** (a) To the extent applicable, the following shall be apportioned as of midnight of the day before the day of Closing:

(i) taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed; (ii) fuel; (iii) interest on the existing mortgage; (iv) premiums on existing transferable insurance policies and renewals of those expiring prior to Closing; (v) vault charges; (vi) rents as and when collected.

(b) If Closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the immediately preceding fiscal period applied to the latest

encurrence of either objection to the other hereafter collectively called "Defects"), other than those subject to which Purchaser is obligated to accept title hereunder or which Purchaser may have waived and other than those which Seller has herein expressly agreed to remove, remedy or discharge and if Purchaser shall be unwilling to waive the same and to close title without abatement of the purchase price, then, except as hereinafter set forth, Seller shall have the right, at Seller's sole election, either to take such action as Seller may deem advisable to remove, remedy, discharge or comply with such Defects or to cancel this contract; (ii) if Seller elects to take action to remove, remedy or comply with such Defects, Seller shall be entitled from time to time, upon Notice to Purchaser, to adjourn the date for Closing hereunder for a period or periods not exceeding 60 days in the aggregate (but not extending beyond the date upon which Purchaser's mortgage commitment, if any, shall expire), and the date for Closing shall be adjourned to a date specified by Seller not beyond such period. If for any reason whatsoever, Seller shall not have succeeded in removing, remedying or complying with such Defects at the expiration of such adjournment(s), and if Purchaser shall still be unwilling to waive the same and to close title without abatement of the purchase price, then either party may cancel this contract by Notice to the other given within 10 days after such adjourned date; (iii) notwithstanding the foregoing, the existing mortgage (unless this sale is subject to the same) and any matter created by Seller after the date hereof shall be released, discharged or otherwise cured by Seller at or prior to Closing.

(c) If this contract is cancelled pursuant to its terms, other than as a result of Purchaser's default, this contract shall terminate and come to an end, and neither party shall have any further rights, obligations or liabilities against or to the other hereunder or otherwise, except that: (i) Seller shall promptly refund or cause the Escrowee to refund the Downpayment to Purchaser and, unless cancelled as a result of Purchaser's default or pursuant to paragraph 8, to reimburse Purchaser for the net cost of examination of title, including any appropriate additional charges related thereto, and the net cost, if actually paid or incurred by Purchaser, for updating the existing survey of the Premises or of a new survey, and (ii) the obligations under paragraph 27 shall survive the termination of this contract.

**22. Affidavit as to Judgments, Bankruptcies, etc.** If a title examination discloses judgments, bankruptcies or other returns against persons having names the same as or similar to that of Seller, Seller shall deliver an affidavit at Closing showing that they are not against Seller.

**23. Defaults and Remedies.** (a) If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Downpayment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the Downpayment constitutes a fair and reasonable amount

remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.

**24. Purchaser's Lien.** All money paid on account of this contract, and the reasonable expenses of examination of title to the Premises and of any survey and survey inspection charges, are hereby made liens on the Premises, but such liens shall not continue after default by Purchaser under this contract.

**25. Notices.** Any notice or other communication ("Notice") shall be in writing and either (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf or by the Escrowee, by registered or certified mail, postage prepaid, or

(b) delivered in person or by overnight courier, with receipt acknowledged, to the respective addresses given in this contract for the party and the Escrowee, to whom the Notice is to be given, or to such other address as such party or Escrowee shall hereafter designate by Notice given to the other party or parties and the Escrowee pursuant to this paragraph. Each Notice mailed shall be deemed given on the third business day following the date of mailing the same, except that any notice to Escrowee shall be deemed given only upon receipt by Escrowee and each Notice delivered in person or by overnight courier shall be deemed given when delivered.

**26. No Assignment.** This contract may not be assigned by Purchaser without the prior written consent of Seller in each instance and any purported assignment(s) made without such consent shall be void.

**27. Broker.** Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker in connection with this sale other than HUDSON HERITAGE REALTY

("Broker") and Seller shall pay Broker any commission earned pursuant to a separate agreement between Seller and Broker. Seller and Purchaser shall indemnify and defend each other against any costs,

claims and expenses, including reasonable attorneys' fees, arising out of the breach on their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or, if Closing does not occur, the termination of this contract.

**28. Miscellaneous.** (a) All prior understandings, agreements, representations and warranties, oral or written, between Seller and Purchaser are merged in this contract; it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this contract.

(b) Neither this contract nor any provision thereof may be waived, changed or cancelled except in writing. This contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this contract.

(c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.

(d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this contract or any provision hereof.

(e) This contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.

(f) Seller and Purchaser shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing.

(g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this contract. This subparagraph shall survive Closing.

(h) This contract is intended for the exclusive benefit of the parties hereto and, except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

**29.** See Rider attached hereto and made a part hereof.

IN WITNESS WHEREOF, this contract has been duly executed by the parties hereto.

VILMA LEE HANSEN

Seller

*David R Furman Jr*  
DAVID FURMAN

Purchaser

*Kristin Furman*  
KRISTIN FURMAN

Purchaser

Attorney for Seller:

KENNETH D. JOHNSON

Address: 5 Bank Street  
P.O. Box 272

Walden, NY 12586

Tel.: 778-5525 Fax: 778-7423

Attorney for Purchaser:

BRIAN GILMARTIN

Address: 90 East Main Street  
P.O. Box 478

Washingtonville, NY 10992  
Tel: 496-1130 Fax: 496-8905

Receipt of the Downpayment is acknowledged and the undersigned agrees to act in accordance with the provisions of paragraph 6 above.

Escrowee

## Contract of Sale

TITLE NO.

PREMISES

Section  
Block  
Lot  
County or Town  
Street Number Address

TO



FIDELITY NATIONAL TITLE  
INSURANCE COMPANY OF NY

INCORPORATED 1928

"Appreciate the Fidelity Difference"

Member New York State Land Title Association

**SELLER'S RIDER**

NOTWITHSTANDING ANYTHING TO THE CONTRARY OR INCONSISTENT HERewith  
IN THE MAIN AGREEMENT TO WHICH THIS IS A RIDER, THE PARTIES AGREE  
AS FOLLOWS:

Seller: VILMA LEE HANSEN

Purchaser: DAVID FURMAN AND KRISTIN FURMAN

Dated: April , 1999

**TITLE TRANSFER SUBJECT TO**

1. Said premises are sold and are to be conveyed subject to the following in addition to the "Subject" clauses previously set forth in the printed portion of this contract. (See Provision Four).

a) Subject to any state of facts an accurate survey might show, provided same does not render title unmarketable.

b) Subject to covenants and restrictions of record affecting the premises, if still in effect, provided same do not prohibit the continued use and maintenance of present structures on the premises.

c) Subject to reservations, utility agreements, rights of way and easements of record, provided same do not prohibit the use and maintenance of present structures on the premises.

d) Subject to the purchaser not rejecting title if existing premises violate "b" or "c", provided that a title insurance company will insure that the structures may remain as long as they shall stand or the title company will insure against the enforcement of any restrictions stated in "b" or "c".

**CONDITION OF SUBJECT PROPERTY**

2. a) The purchaser has examined the premises and the personal property appurtenant to or used in connection with the operation of the same, and are physically familiar with the condition thereof and agrees to purchase the same AS IS in their present physical condition. However, this agreement is subject to a satisfactory engineer's report to be obtained by the purchaser at their own cost and expense within 15 days from the date hereunder, and if the purchaser fails to notify the seller of an

unsatisfactory report within the time specified herein, then such condition shall be deemed waived. In the event an unsatisfactory engineer's report shall be delivered to the seller within the time stated herein, the seller shall have the option to declare this contract null and void or to make the necessary repairs. In the event the seller declares the contract null and void, the purchaser shall be entitled to a return of the down payment.

b) Seller represents that at the time of closing, the premises will be delivered vacant and broom clean, with the plumbing, heating (which includes any hot water heater) and electrical systems in working order. This representation shall not survive the delivery of the deed.

c) Seller makes no representations or warranties with respect to the personal property or appliances included in the sale and listed elsewhere in this agreement. All such personalty is included only to the extent the same now exists in the premises.

#### **TERMITE OR OTHER INFESTATION**

3. The purchaser shall have the right to have the premises inspected for the purpose of determining the existence of infestation or damage by termites or other wood-destroying insects. The cost of said inspection shall be bourne by the purchaser. In the event such infestation or damage is found, written notice shall be delivered to the seller's attorney on or before April 10, 1999. Upon receipt of such notice by the seller's attorney, the seller may do one of the following:

a) Treat the condition and repair the damage at his own cost and expense, in which event the purchaser agrees to consummate this transaction pursuant to the further terms hereof, or

b) Terminate this agreement and refund to the purchaser the sums paid hereunder.

Notice of the seller's intent to exercise either of these options shall be delivered to the purchaser's attorney within five (5) business days after receipt of said notice from the purchaser. In the event the purchaser fails to have the premises inspected, or fails to deliver the said written notice on or before the date provided for above, the purchaser shall be deemed to have waived the provisions of this paragraph and this agreement shall remain in full force and effect. Notwithstanding the election of the seller to terminate this agreement pursuant to subdivision "b" above, purchaser shall have the final option to proceed with the consummation of this transaction, taking the property subject to such conditions and damage as may exist and the further terms of this agreement, provided that written notice is delivered to the seller's attorney within five (5) business days of the seller's notice of election to terminate.



#### **ASSIGNMENT OF CONTRACT**

4. This contract may not be assigned by the purchaser without the prior written consent of the seller.

#### **WARNING: CLOSING OF TITLE IS FINAL**

5. The delivery and acceptance of the deed at closing of title shall be deemed to constitute full compliance by the seller with the terms, covenants and conditions of this contract on the seller's part to be performed, and none of the terms of this contract, except those specifically stated to survive the delivery of the deed shall survive title closing.

#### **CONDITION OF PROPERTY**

6. Seller is not required to make any repairs to the premises and the personal property located therein included in this sale, prior to or following the closing of title. The seller agrees, however, that the premises shall be delivered in substantially the same condition as they are in as of the date of this agreement, normal wear and tear excepted.

#### **NO OTHER AGREEMENTS RECOGNIZED**

7. This agreement constitutes the entire contract between the parties hereto and the seller is not liable or bound in any manner by expressed or implied warranties, guarantees, promises, statements, representations, or information pertaining to said premises, made or furnished by the seller or by any real estate broker, agent, employee, servant, or other person representing or purporting to represent the seller unless such are expressly and specifically set forth herein.

#### **PURCHASER'S RIGHT OF ACCESS**

8. The seller shall provide the purchaser with access to the subject premises at any time within forty-eight (48) hours of the closing of title in order to ascertain the condition of the premises, at which time electricity will be available and water service and heating systems will be operative.

#### **PURCHASER'S OBLIGATIONS CONCERNING TITLE**

9. In the event that the report of any title company shows objections and exceptions, the seller shall, upon receipt of written notice of the purchaser of such objections and exceptions to title, have the right, at seller's option, to cure the defect within thirty (30) days of the date on which such notice was received, and the date for the closing shall be adjourned accordingly.

### **SELLER'S OBLIGATIONS CONCERNING TITLE**

10. Seller shall not be required to bring any action or proceeding or otherwise incur any expense to render the title to the premises marketable. The purchaser may, nevertheless, accept such title as the seller may be able to convey, at purchaser's option, without reduction of the purchase price or any credit allowances against the same and without any other liability on the part of the seller.

Seller shall not be responsible for or obligated to pay, in whole or in part, any expenses, fees, discounts, or other charges in connection with the purchasers obtaining a mortgage in connection with the performance of this agreement.

### **PAYMENT REQUIREMENTS**

11. Notwithstanding any reference in the printed portion of this agreement to purchaser delivering certified checks at the time of closing for taxes, recording charges, documentary stamps, transfer tax or other miscellaneous adjustments at closing, purchaser may, at their option, discharge these obligations by regular personal check.

### **DOWN PAYMENT TO BE HELD IN ESCROW**

12. The down payment paid hereunder, shall be held in the escrow account of Kenneth D. Johnson, P.C., attorney at law, the attorney for the seller until closing of title. The down payment will be held in IOLA account number 06 30 000072 of Walden Savings Bank, Two Bank Street, Walden, N.Y. 12586. The escrowee shall be under no liability or obligation except to disburse the said down payment in accordance with the provisions of this contract. All parties hereto agree to hold the escrowee harmless from any costs or expenses in any suit arising out of said escrow.

### **CLOSING DETAILS**

13. If, at the date of closing, there may be any liens or encumbrances which the seller is obligated to pay and discharge, the seller may use any portion of the balance of the purchase price to pay the same, provided the seller shall simultaneously deliver to the purchaser, at the closing of title, instruments in recordable form and sufficient to satisfy such liens and encumbrances of record, together with the cost of recording or filing of such instruments; or, provided that the seller has made arrangements with the title company employed by the purchaser in advance of the closing, seller will deposit with said title company sufficient monies, acceptable to and required by it to insure obtaining and recording the required satisfac-

tions and the issuance of title insurance to the purchaser either free of any such liens and encumbrances, or with the insurance against the enforcement of same out of the insured premises. The purchaser, if request is made within a reasonable time prior to the date of closing of title, agrees to provide at the closing separate certified checks as requested, aggregating the amount of the balance of the purchase price, to facilitate the satisfaction of any such liens or encumbrances. The existence of any such taxes, liens or encumbrances shall not be deemed objections to title if the seller shall comply with the foregoing requirements.

#### **PLACE OF CLOSING**

14. In the event the closing does not take place at the office of the seller's attorney and instead takes place at a location greater than 35 miles from the premises being sold herein, the seller's attorney shall be compensated by the purchaser in an amount of \$150.00 to cover the cost and time of traveling.

#### **LEAD PAINT**

15. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

16. The Seller and the Purchaser agree that the Purchaser may have early occupancy of the premises being sold herein pursuant to the terms and conditions of an early occupancy agreement attached hereto and made a part hereof.

VILMA LEE HANSEN

David K Furman Jr

DAVID FURMAN

Kristin M Furman

KRISTIN FURMAN

## **EARLY OCCUPANCY AGREEMENT**

**THIS AGREEMENT**, dated the \_\_\_\_\_ day of April, 1999 between VILMA LEE HANSEN (hereinafter referred to as the "Seller") and DAVID FURMAN AND KRISTIN FURMAN (hereinafter referred to as the "Buyer"),

### **W I T N E S S E T H :**

**WHEREAS**, the Buyer has contracted to purchase premises located at 38 Beaver Brook Road, Town of New Windsor, County of Orange, State of New York, from the Seller, and

**WHEREAS**, the Buyer desires occupancy of said premises prior to the actual date of closing of title, and

**WHEREAS**, the Seller will permit said prior possession only upon the terms and conditions hereinafter set forth:

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Buyer and Seller agree as follows:

1) The Buyer shall take possession of the premises and occupy the same for themselves and their family at any time after April 1, 1999.

2) The Buyer hereby releases Seller from all liability for injury attendant to the Buyer's occupancy and hereby holds harmless said Seller from any and all claims whatever which may result therefrom, including attorney's fees. In connection with this paragraph, Buyer has obtained insurance naming the Seller as an additional insured.

3) The Buyer, prior to occupying the premises, hereby certifies that they have inspected the premises and accepts same AS IS and hereby acknowledges that all terms and conditions of the contract of sale relating to the condition of the premises have been totally and completely complied with by Seller.

4) That in the event of non-performance of the contract by either Buyer or Seller, Buyer shall remove themselves and their possessions from the premises forthwith.

5) During the term of this Agreement, Buyer shall pay rent at the rate of \$1,000.00 per month pro-rated on a daily basis.

a) That during the terms of the occupancy, buyer shall be responsible for any and all repairs, the cost of which not to exceed \$500.00. Any repairs in excess of \$500.00, provided that they are not caused by the buyer's neglect or abuse, shall be shared 50% by buyer and 50% by seller.

6) Buyer shall be responsible for all utilities and maintenance expenses, including but not limited to, telephone, heat, hot water, and electricity.

7) Buyer agrees not to make any material alterations to the premises during the term of this Agreement.

8) During the time of occupancy herein, Buyer shall be deemed to be a tenant at sufferance. Buyer hereby waives any right to "notice to terminate" or any other right, laws or regulation which might, in law or equity, apply to such a tenancy. In the event Seller has to evict the Buyer, the Seller shall be compensated by the Buyer for all costs, including reasonable attorney's fees, incurred in the course of said eviction. Further, in the event Buyer does not purchase the premises by September 1, 1999 Buyer shall vacate the premises as of said date.

9) Buyer hereby agrees that the down payment made pursuant to the contract shall act as security for their obligations herein. Seller's attorney is authorized to "invade" said down payment in the event it is necessary to use same as security.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal this \_\_\_\_\_ day of April, 1999.

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Seller

David R. Furman  
Purchaser

Keith M. Turner  
Purchaser

**PURCHASERS RIDER TO CONTRACT OF SALE  
FURMAN from HANSEN**

Notwithstanding anything to the contrary contained in the contract between the above parties, of which this addendum is hereby made part, the Seller agrees with the Purchaser as follows:

1. This contract is subject to the purchasers obtaining a conventional mortgage loan in the amount of \$160,000. —, bearing interest at the prevailing rate. The purchaser agrees to exercise due diligence to obtain such a loan. This contract shall be null and void if the purchaser fails to notify the seller at the address given on or prior to 45 days from the date of this contract that purchaser has successfully obtained said mortgage, and all monies on account shall be returned to the purchaser, and there shall be no further obligation as between the parties herein. All monies paid pursuant to this contract shall be held in escrow by Sellers attorney until closing of title.
2. Seller represents that the water supply is a municipal water system or that the source of water supply is located totally within bounds, that all improvements are located totally within bounds and that there are no encroachments. Seller further represents that the sewer disposal system is a municipal sewerage system or that the septic system is located totally within bounds.
3. In the absence of a written agreement to the contrary, possession of the premises shall be delivered at closing of title, vacant and broom clean except as to articles of personal property passing to the purchasers under the terms of this contract.
4. Orange County property taxes are treated as paid in advance and shall be adjusted by crediting sellers for the balance of the period for the following taxes: State, County and Town Tax – Village Tax (if applicable) and School Tax.
5. Seller warrants that the premises are not affected by any exemption from real estate taxes. If the premises is so exempt and the property is subject to any reimbursement or "roll back" of real estate taxes such reimbursement and roll back payments shall be the exclusive responsibility of Seller. This representation and the provisions of the paragraph shall survive Closing.
6. Purchasers shall have access to the premises within forty-eight (48) hours prior to closing or taking possession in order to ascertain the condition of the premises.
7. The seller shall at the time of closing of title deliver to purchaser a current and valid certificate of occupancy for the premises or a letter setting forth that the construction of the premises predates the requirement for the certificate of occupancy. It is expressly understood that the requirements of the paragraph requiring certificates of occupancy

shall extend to and include any improvements, renovations, additions or modifications which have been undertaken at the premises subsequent to the date of original construction and occupancy for which certificates of occupancy were required or presently are required.

8. This contract is specifically subject to any state of facts an accurate survey may show and to covenants, agreements, ordinances, restrictions and regulations of the City, Village or Town in which the premises are situated, in effect now or at the closing of title.

9. The purchaser shall not be required to take title if such state of facts shall render title unmarketable, or if said covenants, agreements, restrictions or easements shall prohibit the maintenance of the structure erected, or to be erected as herein provided.

10. If the main body or first rider contains any provisions pursuant to which title is to be conveyed subject to utility easements, whether by specific reference to recorded statements or by general reference to such easements of record, the same shall be construed to mean those utility easements which might either be observed by inspection of the premises or provided the same are limited to within fifteen (15) feet of the street line or in the street with no greater privilege than keeping lines clear a distance of not more than fifteen (15) feet.

11. Seller warrants that the premises are not located in a federally designated Flood Zone. If it is determined, prior to closing, that the premises are, in fact, located in a Flood Zone, the purchaser may declare this contract null and void and secure a refund of all earnest monies deposited hereunder.

12. Sellers warrant and represent, said warranty not to survive the taking of occupancy that all plumbing, heating, electrical, mechanical, water and septic systems, as well as appliances, will be in working order as of the date title closes and that the roof and basement shall be free of leaks. Subject to Occupancy Agreement.

13. All notes and notices of violations of law and municipal ordinances, orders or requirements noted in or issued by the Department of Housing and Buildings, Fire Departments, Labor Department, Health Department or other state or municipal departments having jurisdiction against or effecting the premises as of the date of the closing of title, shall be complied with by the seller and the premises shall be conveyed free of the same, and this provision of the contract shall survive the delivery of the deed hereunder.

14. The purchasers shall have the right to have the property inspected and tested for radon gas within fourteen (14) days after receipt of a fully executed contract. The cost of such testing shall be paid for by the purchaser. The seller agrees to give full cooperation to insure the accuracy of the test. If radon gas above 4 picocuries per liter is found, the Seller agrees to make the structural repairs necessary to correct such condition, or purchaser shall have the option to declare this contract null and void.

15. The property has never been, and is not currently, a site for the generation, storage, or disposal of hazardous material; it has never been, and is not currently a disposal site of any kind, to the best of Seller's knowledge. Underground storage tanks have never been, and are not currently, present on the property, to the best of Seller's knowledge.

16. At the closing of title, herein, seller shall give purchaser a credit towards the purchase price in the amount of \$9,600.00 for purchasers closing costs.

David K. Furman  
David Furman, Purchaser

Kristin M. Furman  
Kristin Furman, Purchaser

Vilma Lee Hansen, Seller



Beaver Dam Lake - Section I Development; nor suffer any manufacturing or any business of any kind whatsoever on any part of the above described premises within 500 feet of the lake, nor within 500 feet north of the north line of Beaver Dam Lake - Section I Development; nothing herein contained shall prohibit the development of the property hereinbefore described as a bungalow colony; and the party of the second part hereby further covenants and agrees ~~that no building shall be erected nor shall any cesspool or septic tank or drains therefrom be installed less than 150 feet from the high water mark of Beaver Dam Lake; nor within 100 feet of any stream flowing into said Lake.~~

Subject to the right of way of any telephone or telegraph company or electric light or power company, or any other public utility company as now established or of record, if any there be,

No portion of the premises above described shall be used as a hotel or boarding house, nor for any other commercial purpose, except that nothing herein contained shall prohibit the development of the property hereinabove described as a bungalow colony.

Together with the right of ingress and egress over the proposed roadway.

Excepting and reserving to the parties of the first part the right to establish utility lines on the premises above described along the above described proposed roads.

Together with all the right, title and interest of the sellers of, in and to any land lying in the bed of any street, road or avenue open or proposed, in front of or adjoining said premises to the center line thereof, subject to the rights of the Grantors, their heirs and assigns to use the same for highway purposes.

The premises above described are sold subject to building and zoning ordinances, if any.

Granting further to the Grantees, their heirs and assigns an undivided interest in common with the Grantors, their heirs and assigns in and to the parcel of land fronting on Beaver Dam Lake, more particularly bounded and described as follows:

ALL that piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, New York, more particularly bounded and described as follows:

BEGINNING at a point on the easterly shore of Beaver Dam Lake, the said point of beginning is at the easterly end of a course described as South 75° 15' East 522 feet in the boundary line description in the deed of conveyance given to William J. Gruthers and Charles Boos by Anna Johnson; running thence (1) in a northeasterly direction for a distance of 100 feet, along the easterly shore of the said lake, to an iron pipe driven into the ground, thence (2) South 65° 44' East 214.23 feet, over and through land of the said Gruthers and Boos, to an iron pipe driven into the ground, thence (3) South 18° 22' East 33 feet, along the westerly line of a right of way 50 feet in width, within the bounds of which the said Gruthers and Boos have had a road constructed thence (4) South 12° 30' East 68 feet, along the westerly line of the said right of way to a point, thence (5) North 65° 44' West 270 feet more or less, over and through land of the said Gruthers and Boos, to the point of beginning.

Containing 0.55 acres more or less.

Being and intended to be the same premises conveyed by William J. Gruthers and Charles Boos to Edna M. Hethmon, by deed dated July 13, 1950 and recorded in the Orange County Clerk's Office on September 20, 1950 in Liber 1172 of deeds at page 611.

LIBER, 1 re. 1013

# This Indenture,

Made the 27<sup>th</sup> day of May, nineteen hundred and sixty-eight

Between EDNA M. MC MAHON, residing at 32 Bromleigh Road, Stewart Manor, Long Island, New York,

part Y of the first part, and  
 VILMA-LEE REYNOLDS, residing at 43-20, 53rd Street, Woodside, New York,

part Y of the second part:  
 (Witnessed), that the part Y of the first part, in consideration of  
 Ten and no/100 ----- (\$10.00) ----- Dollars,  
 lawful money of the United States and other good and valuable consideration  
 paid by the part Y of the second part,  
 do as hereby grant and release unto the part Y of the second part,  
 her heirs and assigns forever,

All that lot, piece or parcel of land situate, lying and being in  
 the Town of New Windsor, County of Orange and State of New York, more  
 particularly bounded and described as follows:

BEGINNING at a point on the southerly side of a private road  
 recently constructed on the said farm acquired from Anna Johnson, the  
 said point of beginning is South 54° 49 1/2' West 62.65 feet from the  
 southeasterly corner of a parcel of land containing 2.952 acres which  
 was recently conveyed by Cruthers and Doos to Dickinson; running thence  
 (1) South 73° 04' East 200.00 feet along the southerly side of the said  
 private road, thence (2) South 17° 58 1/2' West 432.76 feet along the  
 westerly side of the same, crossing a brook, thence (3) North 71° 19'  
 West 206.11 feet along a line approximately ten feet south of the south  
 bank of the said brook, thence (4) North 10° 48' East 426.59 feet over  
 and through the said farm acquired from Anna Johnson to the point of  
 beginning.

Containing 2.002 acres more or less.

The purchaser is hereby granted the right to use Beaver Dam Lake  
 for boating, fishing, recreation and sports insofar as the parties of  
 the first part have the right to grant such use to the party of the  
 second part. It being understood and agreed by the parties hereto that  
 only boats propelled by hand or wind shall be used upon said Lake and  
 that no boats propelled by motors, engines, or other mechanical power  
 will be permitted or used thereon, and that said Lake shall not be used  
 for any business purposes whatsoever. It is understood and agreed by  
 the parties hereto that the parties of the first part assume no liabili-  
 ty for damages or injuries to persons or property by reason of their  
 grant of the use of the streets or of the said Lake to the party of the  
 second part. Nothing contained herein and in the instruments to be  
 delivered in consummation of this agreement shall be construed as im-  
 pairing the right of the sellers to maintain the dam at the south end  
 of the Lake at its present level, nor to impose any obligation on them  
 to maintain such dam.

And the party of the second part hereby further covenants and  
 agrees that she will not suffer nor permit at any time any advertising  
 signs nor any fowls or other livestock, nor any noxious or poisonous or  
 other objectionable thing, having a regard to the general character of  
 the neighborhood, on any part of the above described premises within  
 500 feet of the lake, nor within 500 feet north of the north line of

Jointly prepared by the Real Property Section of the New York State Bar Association, the New York State Land Title Association, the Committee on Real Property Law of the Association of the Bar of the City of New York and the Committee on Real Property Law of the New York County Lawyers' Association.

**WARNING: NO REPRESENTATION IS MADE THAT THIS FORM OF CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE COMPLIES WITH SECTION 5-702 OF THE GENERAL OBLIGATIONS LAW ("PLAIN LANGUAGE").**

**CONSULT YOUR LAWYER BEFORE SIGNING THIS AGREEMENT**

**NOTE: FIRE AND CASUALTY LOSSES AND CONDEMNATION.**

This contract form does not provide for what happens in the event of fire, or other casualty loss or condemnation before the title closing. Unless different provision is made in this contract, Section 5-1311 of the General Obligations Law will apply. One part of that law makes a Purchaser responsible for fire and casualty loss upon taking possession of the Premises before the title closing.

**Residential Contract of Sale**

**Contract of Sale** made as of

1999 BETWEEN VILMA LEE REYNOLDS

Address: 38 Beaver Brook Road, Salisbury Mills, New York 12577

Social Security Number/Fed. I. D. No(s):

hereinafter called "Seller" and

DAVID FURMAN AND KRISTIN FURMAN

Address: 31 Moore Lane, Washingtonville, New York 10992

Social Security Number/Fed. I. D. No(s):

hereinafter called "Purchaser".

**The parties hereby agree as follows:**

1. **Premises.** Seller shall sell and convey and Purchaser shall purchase the property, together with all buildings and improvements thereon (collectively the "Premises"), more fully described on a separate page marked "Schedule A", annexed hereto and made a part hereof and also known as:

Street Address: 38 Beaver Brook Road

Tax Map Designation: 58-4-8

T/O New Windsor

Together with Seller's ownership and rights, if any, to land lying in the bed of any street or highway, opened or proposed, adjoining the Premises to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. Seller shall deliver at no additional cost to Purchaser, at Closing (as hereinafter defined), or thereafter, on demand, any documents that Purchaser may reasonably require for the conveyance of such title and the assignment and collection of such award or damages.

2. **Personal Property.** This sale also includes all fixtures and articles of personal property now attached or appurtenant to the Premises, unless specifically excluded below. Seller represents and warrants that at Closing they will be paid for and owned by Seller, free and clear of all liens and encumbrances, except any existing mortgage to which this sale may be subject. They include, but are not limited to, plumbing, heating, lighting and cooking fixtures, bathroom and kitchen cabinets, mantels, door mirrors, switch plates and door hardware, venetian blinds, window treatments, shades, screens, awnings, storm windows, storm doors, window boxes, mail box, TV aerials, weather vane, flagpole, pumps, shrubbery, fencing, ~~outdoor statuary, tool shed, dishwasher, washing machine, clothes dryer, garbage disposal unit, range, oven, refrigerator, freezer, air conditioning equipment and installations, wall-to-wall carpeting and built-ins~~ not excluded below (*strike out inapplicable items*).

interest at the rate of \_\_\_\_\_ percent per annum, in monthly installments of \$ \_\_\_\_\_ which include principal, interest and escrow amounts, if any, and with any balance of principal being due and payable on \_\_\_\_\_

(b) To the extent that any required payments are made on the existing mortgage between the date hereof and Closing which reduce the unpaid principal amount thereof below the amount shown in paragraph 3(b), then the balance of the price payable at Closing under paragraph 3(d) shall be increased by the amount of the payments of principal. Seller represents and warrants that the amount shown in paragraph 3(b) is substantially correct and agrees that only payments required by the existing mortgage will be made between the date hereof and Closing.

(c) If there is a mortgagee escrow account, Seller shall assign it to Purchaser, if it can be assigned, and in that case Purchaser shall pay the amount in the escrow account to Seller at Closing.

(d) Seller shall deliver to Purchaser at Closing a certificate dated not more than 30 days before Closing signed by the holder of the existing mortgage, in form for recording, certifying the amount of the unpaid principal, the date to which interest has been paid and the amounts, if any, claimed to be unpaid for principal and interest, itemizing the same. Seller shall pay the fees for recording such certificate. If the holder of the existing mortgage is a bank or other institution as defined in Section 274-a of the Real Property Law ("Institutional Lender"), it may, instead of the certificate, furnish a letter signed by a duly authorized officer, employee or agent, dated not more than 30 days before Closing, containing the same information.

(e) Seller represents and warrants that (i) Seller has delivered to Purchaser true and complete copies of the existing mortgage, the note secured thereby and any extensions and modifications thereof, (ii) the existing mortgage is not now, and at the time of Closing will not be, in default, and (iii) the existing mortgage does not contain any provision that permits the holder of the mortgage to require its immediate payment in full or to change any other term thereof by reason of the sale or conveyance of the Premises.

Excluded from this sale are furniture and household furnishings and

**3. Purchase Price.** The purchase price is

\$ 160,000.00

payable as follows:

(a) on the signing of this contract, by Purchaser's check payable to the Escrowee (as hereinafter defined), subject to collection, the receipt of which is hereby acknowledged, to be held in escrow pursuant to paragraph 6 of this contract (the "Downpayment"):  
(\$500.00 paid on binder) \$ 5,500.00

(b) by allowance for the principal amount unpaid on the existing mortgage on the date hereof, payment of which Purchaser shall assume by joinder in the deed: \$

(c) by a purchase money note and mortgage from Purchaser to Seller: \$

(d) balance at Closing in accordance with paragraph 7:  
\$ 154,500.00

**4. Existing Mortgage.** ~~(Delete if inapplicable) If this sale is subject to an existing mortgage as indicated in paragraph 3(b) above:~~

~~(a) The Premises shall be conveyed subject to the continuing lien of the existing mortgage, which is presently payable, with-~~

**5. Purchase Money Mortgage.** ~~(Delete if inapplicable) If there is to be a purchase money mortgage as indicated in paragraph 3(c) above:~~

(a) The purchase money note and mortgage shall be drawn by the attorney for Seller in the form attached or, if not, in the standard form adopted by the New York State Land Title Association. Purchaser shall pay at Closing the mortgage recording tax, recording fees and the attorney's fees in the amount of \$ for its preparation.

(b) The purchase money note and mortgage shall also provide that it is subject and subordinate to the lien of the existing mortgage and any extensions, modifications, replacements or consolidations of the existing mortgage, provided that (i) the interest rate thereof shall not be greater than percent per annum and the total debt service thereunder shall not be greater than \$ per annum, and (ii) if the principal amount thereof shall exceed the amount of principal owing and unpaid on the existing mortgage at the time of placing such new mortgage or consolidated mortgage, the excess be paid to the holder of such purchase money mortgage in reduction of the principal thereof. The purchase money mortgage shall also provide that such payment to the holder thereof shall not alter or affect the regular installments, if any, of principal payable thereunder and that the holder thereof will, on demand and without charge therefor, execute, acknowledge and deliver any agreement or agreements further to effectuate such subordination.

**6. Downpayment in Escrow.** (a) Seller's attorney ("Escrowee") shall hold the Downpayment for Seller's account in escrow in a segregated bank account at Walden Savings Bank Two Bank Street, Walden, NY 12586

until Closing or sooner termination of this contract and shall pay over or apply the Downpayment in accordance with the terms of this paragraph. Escrowee shall ~~(not)~~ ~~(Delete if inapplicable)~~ hold the Downpayment in an interest-bearing account for the benefit of

the parties. If interest is held for the benefit of the parties, it shall be paid to the party entitled to the Downpayment and the party receiving the interest shall pay any income taxes thereon. If interest is not held for the benefit of the parties, the Downpayment shall be placed in an IOLA account or as otherwise permitted or required by law. The Social Security or Federal Identification numbers of the parties shall be furnished to Escrowee upon request. At Closing, the Downpayment shall be paid by Escrowee to Seller. If for any reason Closing does not occur and either party gives Notice (as defined in paragraph 25) to Escrowee demanding payment of the Downpayment, Escrowee shall give prompt Notice to the other party of such demand. If Escrowee does not receive Notice of objection from such other party to the proposed payment within 10 business days after the giving of such Notice, Escrowee is hereby authorized and directed to make such payment. If Escrowee does receive such Notice of objection within such 10 day period or if for any other reason Escrowee in good faith shall elect not to make such payment, Escrowee shall continue to hold such amount until otherwise directed by Notice from the parties to this contract or a final, nonappealable judgment, order or decree of a court. However, Escrowee shall have the right at any time to deposit the Downpayment and the interest thereon with the clerk of a court in the county in which the Premises are located and shall give Notice of such deposit to Seller and Purchaser. Upon such deposit or other disbursement in accordance with the terms of this paragraph, Escrowee shall be relieved and discharged of all further obligations and responsibilities hereunder.

(b) The parties acknowledge that, although Escrowee is holding the Downpayment for Seller's account, for all other purposes Escrowee is acting solely as a stakeholder at their request and for their convenience and that Escrowee shall not be liable to either party for any act or omission on its part unless taken or suffered in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee. Seller and Purchaser jointly and severally agree to defend, indemnify and hold Escrowee harmless from and against all costs, claims and expenses (including reasonable attorneys' fees) incurred in connection with the performance of Escrowee's duties hereunder, except with respect to actions or omissions taken or suffered by Escrowee in bad faith or in willful disregard of this contract or involving gross negligence on the part of Escrowee.

(c) Escrowee may act or refrain from acting in respect of any matter referred to herein in full reliance upon and with the advice of counsel which may be selected by it (including any member of its firm) and shall be fully protected in so acting or refraining from action upon the advice of such counsel.

(d) Escrowee acknowledges receipt of the Downpayment by check subject to collection and Escrowee's agreement to the provisions of this paragraph by signing in the place indicated on the signature page of this contract.

(e) Escrowee or any member of its firm shall be permitted to act as counsel for Seller in any dispute as to the disbursement of the Downpayment or any other dispute between the parties whether or not Escrowee is in possession of the Downpayment and continues to act as Escrowee.

~~party shall have any further rights against, or obligations or liabilities to, the other party by reason of this contract, except that the Downpayment shall be promptly refunded to Purchaser and except as set forth in paragraph 27. If Purchaser fails to give notice of cancellation or if Purchaser shall accept a commitment that does not comply with the terms set forth above, then Purchaser shall be deemed to have waived Purchaser's right to cancel this contract and to receive a refund of the Downpayment by reason of the contingency contained in this paragraph.~~

**9. Permitted Exceptions.** The Premises are sold and shall be conveyed subject to:

(a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, provided that they are not violated by the existing buildings and improvements erected on the property or their use;

(b) Consents for the erection of any structures on, under or above any streets on which the Premises abut;

(c) Encroachments of stoops, areas, cellar steps, trim and cornices, if any, upon any street or highway;

(d) Real estate taxes that are a lien, but are not yet due and payable; and

(e) The other matters, if any, including a survey exception, set forth in a Rider attached.

**10. Governmental Violations and Orders.** (a) Seller shall comply with all notes or notices of violations of law or municipal ordinances, orders or requirements noted or issued as of the date hereof by any governmental department having authority as to lands, housing, buildings, fire, health, environmental and labor conditions affecting the Premises. The Premises shall be conveyed free of them at Closing. Seller shall furnish Purchaser with any authorizations necessary to make the searches that could disclose these matters.

~~(b) (Delete if inapplicable) All obligations affecting the Premises pursuant to the Administrative Code of the City of New York incurred prior to Closing and payable in money shall be discharged by Seller at or prior to Closing.~~

**11. Seller's Representations.** (a) Seller represents and warrants to Purchaser that:

(i) The Premises abut or have a right of access to a public road;

(ii) Seller is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this contract;

(iii) Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA");

(iv) The Premises are not affected by any exemptions or abatements of taxes; and

(v) Seller has been known by no other name for the past ten years, except

**7. Acceptable Funds.** All money payable under this contract, unless otherwise specified, shall be paid by:

(a) Cash, but not over \$1,000.00;

(b) Good certified check of Purchaser drawn on or official check issued by any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, unendorsed and payable to the order of Seller, or as Seller may otherwise direct upon not less than 3 business days notice (by telephone or otherwise) to Purchaser;

(c) As to money other than the purchase price payable to Seller at Closing, uncertified check of Purchaser up to the amount of \$ 500.00 ; and

(d) As otherwise agreed to in writing by Seller or Seller's attorney.

~~**8. Mortgage Contingency.** (Delete if inapplicable) The obligations of Purchaser hereunder are conditioned upon issuance on or before , 19 , (the "Commitment Date") of a written commitment from any Institutional Lender pursuant to which such Institutional Lender agrees to make a first mortgage loan, other than a VA, FHA or other governmentally insured loan, to Purchaser, at Purchaser's sole cost and expense, of \$ or such lesser sum as Purchaser shall be willing to accept, at the prevailing fixed rate of interest not to exceed or initial adjustable rate of interest not to exceed for a term of at least years and on other customary commitment terms, whether or not conditional upon any factors other than an appraisal satisfactory to the Institutional Lender. Purchaser shall (a) make prompt application to an Institutional Lender for such mortgage loan, (b) furnish accurate and complete information regarding Purchaser and members of Purchaser's family, as required, (c) pay all fees, points and charges required in connection with such application and loan, (d) pursue such application with diligence, (e) cooperate in good faith with such Institutional Lender to obtain such commitment and (f) promptly give Notice to Seller of the name and address of each Institutional Lender to which Purchaser has made such application. Purchaser shall comply with all requirements of such commitment (or of any other commitment accepted by Purchaser) and shall furnish Seller with a copy thereof promptly after receipt thereof. If such commitment is not issued on or before the Commitment Date, then, unless Purchaser has accepted a commitment that does not comply with the requirements set forth above, Purchaser may cancel this contract by giving Notice to Seller within 5 business days after the Commitment Date, in which case this contract shall be deemed canceled and thereafter neither~~

(b) Seller covenants and warrants that all of the representations and warranties set forth in this contract shall be true and correct at Closing.

(c) Except as otherwise expressly set forth in this contract, none of Seller's covenants, representations, warranties or other obligations contained in this contract shall survive Closing.

**12. Condition of Property.** Purchaser acknowledges and represents that Purchaser is fully aware of the physical condition and state of repair of the Premises and of all other property included in this sale, based on Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this contract based solely upon such inspection and investigation and not upon any information, data, statements or representations, written or oral, as to the physical condition, state of repair, use, cost of operation or any other matter related to the Premises or the other property included in the sale, given or made by Seller or its representatives, and shall accept the same "as is" in their present condition and state of repair, subject to reasonable use, wear, tear and natural deterioration between the date hereof and the date of Closing (except as otherwise set forth in paragraph 16(f)), without any reduction in the purchase price or claim of any kind for any change in such condition by reason thereof subsequent to the date of this contract. Purchaser and its authorized representatives shall have the right, at reasonable times and upon reasonable notice (by telephone or otherwise) to Seller, to inspect the Premises before Closing.

**13. Insurable Title.** Seller shall give and Purchaser shall accept such title as any company duly licensed to

insure titles in NY State

shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, subject only to the matters provided for in this contract.

**14. Closing, Deed and Title.** (a) "Closing" means the settlement of the obligations of Seller and Purchaser to each other under this contract, including the payment of the purchase price to Seller, and the delivery to Purchaser of a Bargain & Sale W/CAG

deed in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The deed shall contain a covenant by Seller as required by subd. 5 of Section 13 of the Lien Law.

(b) If Seller is a corporation, it shall deliver to Purchaser at the time of Closing (i) a resolution of its Board of Directors authorizing the sale and delivery of the deed, and (ii) a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the transfer is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with that Section.

**15. Closing Date and Place.** Closing shall take place at the office of Kenneth D. Johnson, 5 Bank Street, or the purchasers lending institution

at 2:00 o'clock on/or about 9/1/99, or, upon reasonable notice (by telephone or otherwise) by Purchaser, at the office of

**16. Conditions to Closing.** This contract and Purchaser's obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

(a) The accuracy, as of the date of Closing, of the representations and warranties of Seller made in this contract.

(b) The delivery by Seller to Purchaser of a valid and subsisting Certificate of Occupancy or other required certificate of compliance, or evidence that none was required, covering the building(s) and all of the other improvements located on the property authorizing their use as a single family dwelling at the date of Closing.

(c) The delivery by Seller to Purchaser of a duly executed and sworn affidavit (in form prescribed by law) claiming exemption of the sale contemplated hereby, if such be the case, under Article 31-B of the Tax Law of the State of New York and the Regulations promulgated thereunder, as the same may be amended from time to time (collectively the "Gains Tax Law"); or if such sale shall not be exempt under the Gains Tax Law, Seller and Purchaser agree to comply in a timely manner with the requirements of the Gains Tax Law and, at Closing, Seller shall deliver to Purchaser (i) an official return showing no tax due, or (ii) an official return accompanied by a certified or official bank check drawn on a New York State banking institution payable to the order of the New York State Department of Taxation and Finance in the amount of the tax shown to be due thereon. Seller shall (x) pay promptly any additional tax that may become due under the Gains Tax Law, together with interest and penalties thereon, if any, which may be assessed or become due after Closing, and/or execute any other documents that may be required in respect thereof, and (y) indemnify, defend and save Purchaser harmless from and

(c) If there is a water meter on the Premises, Seller shall furnish a reading to a date not more than 30 days before Closing and the unfixed meter charge and sewer rent, if any, shall be apportioned on the basis of such last reading.

(d) If at the date of Closing the Premises are affected by an assessment which is or may become payable in annual installments, and the first installment is then a lien, or has been paid, then for the purposes of this contract all the unpaid installments shall be considered due and shall be paid by Seller at or prior to Closing.

**17. Errors and Omissions.** Any errors or omissions in computing apportionments or other adjustments at Closing shall be corrected within a reasonable time following Closing. This subparagraph shall survive Closing.

**19. Allowance for Unpaid Taxes, etc.** Seller has the option to credit Purchaser as an adjustment to the purchase price with the amount of any unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon to a date not less than five business days after Closing, provided that official bills therefor computed to said date are produced at Closing.

**20. Use of Purchase Price to Remove Encumbrances.** If at Closing there are other liens or encumbrances that Seller is obligated to pay or discharge, Seller may use any portion of the cash balance of the purchase price to pay or discharge them, provided Seller shall simultaneously deliver to Purchaser at Closing instruments in recordable form and sufficient to satisfy such liens or encumbrances of record, together with the cost of recording or filing said instruments. As an alternative Seller may deposit sufficient monies with the title insurance company employed by Purchaser acceptable to and required by it to assure their discharge, but only if the title insurance company will insure Purchaser's title clear of the matters or insure against their enforcement out of the Premises and will insure Purchaser's Institutional Lender clear of such matters. Upon notice (by telephone or otherwise), given not less than 3 business days before Closing, Purchaser shall provide separate certified or official bank checks as requested to assist in clearing up these matters.

**21. Title Examination; Seller's Inability to Convey; Limitations of Liability.** (a) Purchaser shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this contract or, if this contract is subject to the mortgage contingency set forth in paragraph 8, after a mortgage commitment has been accepted by Purchaser. Purchaser shall cause a copy of the title report and of any additions thereto to be delivered to the attorney(s) for Seller promptly after receipt thereof.

(b)(i) If at the date of Closing Seller is unable to transfer title to Purchaser in accordance with this contract, or Purchaser has other valid grounds for refusing to close, whether by reason of liens,

expense (including reasonable attorneys' fees) which may be suffered or incurred by Purchaser by reason of the nonpayment thereof. The provisions of this subparagraph (c) shall survive Closing.

(d) The delivery by Seller to Purchaser of a certification stating that Seller is not a foreign person, which certification shall be in the form then required by FIRPTA. If Seller fails to deliver the aforesaid certification or if Purchaser is not entitled under FIRPTA to rely on such certification, Purchaser shall deduct and withhold from the purchase price a sum equal to 10% thereof (or any lesser amount permitted by law) and shall at Closing remit the withheld amount with the required forms to the Internal Revenue Service.

(e) The delivery of the Premises and all building(s) and improvements comprising a part thereof in broom clean condition, vacant and free of leases or tenancies, together with keys to the Premises.

(f) All plumbing (including water supply and septic systems, if any), heating and air conditioning, if any, electrical and mechanical systems, equipment and machinery in the building(s) located on the property and all appliances which are included in this sale being in working order as of the date of Closing.

(g) If the Premises are a one or two family house, delivery by the parties at Closing of affidavits in compliance with state and local law requirements to the effect that there is installed in the Premises a smoke detecting alarm device or devices.

(h) The delivery by the parties of any other affidavits required as a condition of recording the deed.

**17. Deed Transfer and Recording Taxes.** At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the party required by law or by this contract to pay such transfer and/or recording tax, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing.

**18. Apportionments and Other Adjustments; Water Meter and Installment Assessments.** (a) To the extent applicable, the following shall be apportioned as of midnight of the day before the day of Closing:

(i) taxes, water charges and sewer rents, on the basis of the fiscal period for which assessed; (ii) fuel; (iii) interest on the existing mortgage; (iv) premiums on existing transferable insurance policies and renewals of those expiring prior to Closing; (v) vault charges; (vi) rents as and when collected.

(b) If Closing shall occur before a new tax rate is fixed, the apportionment of taxes shall be upon the basis of the tax rate for the immediately preceding fiscal period applied to the latest assessed valuation.

collectively called "Defects"), other than those subject to which Purchaser is obligated to accept title hereunder or which Purchaser may have waived and other than those which Seller has herein expressly agreed to remove, remedy or discharge and if Purchaser shall be unwilling to waive the same and to close title without abatement of the purchase price, then, except as hereinafter set forth, Seller shall have the right, at Seller's sole election, either to take such action as Seller may deem advisable to remove, remedy, discharge or comply with such Defects or to cancel this contract; (ii) if Seller elects to take action to remove, remedy or comply with such Defects, Seller shall be entitled from time to time, upon Notice to Purchaser, to adjourn the date for Closing hereunder for a period or periods not exceeding 60 days in the aggregate (but not extending beyond the date upon which Purchaser's mortgage commitment, if any, shall expire), and the date for Closing shall be adjourned to a date specified by Seller not beyond such period. If for any reason whatsoever, Seller shall not have succeeded in removing, remedying or complying with such Defects at the expiration of such adjournment(s), and if Purchaser shall still be unwilling to waive the same and to close title without abatement of the purchase price, then either party may cancel this contract by Notice to the other given within 10 days after such adjourned date; (iii) notwithstanding the foregoing, the existing mortgage (unless this sale is subject to the same) and any matter created by Seller after the date hereof shall be released, discharged or otherwise cured by Seller at or prior to Closing.

(c) If this contract is cancelled pursuant to its terms, other than as a result of Purchaser's default, this contract shall terminate and come to an end, and neither party shall have any further rights, obligations or liabilities against or to the other hereunder or otherwise, except that: (i) Seller shall promptly refund or cause the Escrowee to refund the Downpayment to Purchaser and, unless cancelled as a result of Purchaser's default or pursuant to paragraph 8, to reimburse Purchaser for the net cost of examination of title, including any appropriate additional charges related thereto, and the net cost, if actually paid or incurred by Purchaser, for updating the existing survey of the Premises or of a new survey, and (ii) the obligations under paragraph 27 shall survive the termination of this contract.

**22. Affidavit as to Judgments, Bankruptcies, etc.** If a title examination discloses judgments, bankruptcies or other returns against persons having names the same as or similar to that of Seller, Seller shall deliver an affidavit at Closing showing that they are not against Seller.

**23. Defaults and Remedies.** (a) If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Downpayment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the Downpayment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.



(b) If Seller defaults hereunder, Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.

**24. Purchaser's Lien.** All money paid on account of this contract, and the reasonable expenses of examination of title to the Premises and of any survey and survey inspection charges, are hereby made liens on the Premises, but such liens shall not continue after default by Purchaser under this contract.

**25. Notices.** Any notice or other communication ("Notice") shall be in writing and either (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf or by the Escrowee, by registered or certified mail, postage prepaid, or

(b) delivered in person or by overnight courier, with receipt acknowledged, to the respective addresses given in this contract for the party and the Escrowee, to whom the Notice is to be given, or to such other address as such party or Escrowee shall hereafter designate by Notice given to the other party or parties and the Escrowee pursuant to this paragraph. Each Notice mailed shall be deemed given on the third business day following the date of mailing the same, except that any notice to Escrowee shall be deemed given only upon receipt by Escrowee and each Notice delivered in person or by overnight courier shall be deemed given when delivered.

**26. No Assignment.** This contract may not be assigned by Purchaser without the prior written consent of Seller in each instance and any purported assignment(s) made without such consent shall be void.

**27. Broker.** Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker in connection with this sale other than HUDSON HERITAGE REALTY

("Broker") and Seller shall pay Broker any commission earned pursuant to a separate agreement between Seller and Broker. Seller and Purchaser shall indemnify and defend each other against any costs,

claims and expenses, including reasonable attorneys' fees, arising out of the breach of their respective parts of any representation or agreement contained in this paragraph. The provisions of this paragraph shall survive Closing or, if Closing does not occur, the termination of this contract.

**28. Miscellaneous.** (a) All prior understandings, agreements, representations and warranties, oral or written, between Seller and Purchaser are merged in this contract; it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this contract.

(b) Neither this contract nor any provision thereof may be waived, changed or cancelled except in writing. This contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this contract.

(c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.

(d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this contract or any provision hereof.

(e) This contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.

(f) Seller and Purchaser shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing.

(g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this contract. This subparagraph shall survive Closing.

(h) This contract is intended for the exclusive benefit of the parties hereto and, except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

**29.** See Rider attached hereto and made a part hereof.

IN WITNESS WHEREOF, this contract has been duly executed by the parties hereto.

VILMA LEE HANSEN

*Seller*

DAVID FURMAN

*Purchaser*

*Seller*

KRISTIN FURMAN

*Purchaser*

**Attorney for Seller:**

KENNETH D. JOHNSON

Address: 5 Bank Street

P.O. Box 272

Walden, NY 12586

Tel.: 778-5525

Fax: 778-7423

**Attorney for Purchaser:**

BRIAN GILMARTIN

Address: 90 East Main Street

P.O. Box 478

Washingtonville, NY 10992

Tel. 496-1130

Fax: 496-8905

Receipt of the Downpayment is acknowledged and the undersigned agrees to act in accordance with the provisions of paragraph 6 above.

*Escrowee*

## Contract of Sale

TITLE NO.

TO

## PREMISES

Section

Block

Lot

County or Town

Street Number Address



**FIDELITY NATIONAL TITLE  
INSURANCE COMPANY OF NY**

**INCORPORATED 1928**

*"Appreciate the Fidelity Difference!"*

*Member New York State Land Title Association*

**SELLER'S RIDER**

NOTWITHSTANDING ANYTHING TO THE CONTRARY OR INCONSISTENT HERewith  
IN THE MAIN AGREEMENT TO WHICH THIS IS A RIDER, THE PARTIES AGREE  
AS FOLLOWS:

Seller: VILMA LEE HANSEN

Purchaser: DAVID FURMAN AND KRISTIN FURMAN

Dated: April , 1999

**TITLE TRANSFER SUBJECT TO**

1. Said premises are sold and are to be conveyed subject to the following in addition to the "Subject" clauses previously set forth in the printed portion of this contract. (See Provision Four).

a) Subject to any state of facts an accurate survey might show, provided same does not render title unmarketable.

b) Subject to covenants and restrictions of record affecting the premises, if still in effect, provided same do not prohibit the continued use and maintenance of present structures on the premises.

c) Subject to reservations, utility agreements, rights of way and easements of record, provided same do not prohibit the use and maintenance of present structures on the premises.

d) Subject to the purchaser not rejecting title if existing premises violate "b" or "c", provided that a title insurance company will insure that the structures may remain as long as they shall stand or the title company will insure against the enforcement of any restrictions stated in "b" or "c".

**CONDITION OF SUBJECT PROPERTY**

2. a) The purchaser has examined the premises and the personal property appurtenant to or used in connection with the operation of the same, and are physically familiar with the condition thereof and agrees to purchase the same AS IS in their present physical condition. However, this agreement is subject to a satisfactory engineer's report to be obtained by the purchaser at their own cost and expense within 15 days from the date hereunder, and if the purchaser fails to notify the seller of an

unsatisfactory report within the time specified herein, then such condition shall be deemed waived. In the event an unsatisfactory engineer's report shall be delivered to the seller within the time stated herein, the seller shall have the option to declare this contract null and void or to make the necessary repairs. In the event the seller declares the contract null and void, the purchaser shall be entitled to a return of the down payment.

b) Seller represents that at the time of closing, the premises will be delivered vacant and broom clean, with the plumbing, heating (which includes any hot water heater) and electrical systems in working order. This representation shall not survive the delivery of the deed.

c) Seller makes no representations or warranties with respect to the personal property or appliances included in the sale and listed elsewhere in this agreement. All such personalty is included only to the extent the same now exists in the premises.

#### **TERMITE OR OTHER INFESTATION**

3. The purchaser shall have the right to have the premises inspected for the purpose of determining the existence of infestation or damage by termites or other wood-destroying insects. The cost of said inspection shall be bourne by the purchaser. In the event such infestation or damage is found, written notice shall be delivered to the seller's attorney on or before April 10, 1999. Upon receipt of such notice by the seller's attorney, the seller may do one of the following:

a) Treat the condition and repair the damage at his own cost and expense, in which event the purchaser agrees to consummate this transaction pursuant to the further terms hereof, or

b) Terminate this agreement and refund to the purchaser the sums paid hereunder.

Notice of the seller's intent to exercise either of these options shall be delivered to the purchaser's attorney within five (5) business days after receipt of said notice from the purchaser. In the event the purchaser fails to have the premises inspected, or fails to deliver the said written notice on or before the date provided for above, the purchaser shall be deemed to have waived the provisions of this paragraph and this agreement shall remain in full force and effect. Notwithstanding the election of the seller to terminate this agreement pursuant to subdivision "b" above, purchaser shall have the final option to proceed with the consummation of this transaction, taking the property subject to such conditions and damage as may exist and the further terms of this agreement, provided that written notice is delivered to the seller's attorney within five (5) business days of the seller's notice of election to terminate.

#### **ASSIGNMENT OF CONTRACT**

4. This contract may not be assigned by the purchaser without the prior written consent of the seller.

#### **WARNING: CLOSING OF TITLE IS FINAL**

5. The delivery and acceptance of the deed at closing of title shall be deemed to constitute full compliance by the seller with the terms, covenants and conditions of this contract on the seller's part to be performed, and none of the terms of this contract, except those specifically stated to survive the delivery of the deed shall survive title closing.

#### **CONDITION OF PROPERTY**

6. Seller is not required to make any repairs to the premises and the personal property located therein included in this sale, prior to or following the closing of title. The seller agrees, however, that the premises shall be delivered in substantially the same condition as they are in as of the date of this agreement, normal wear and tear excepted.

#### **NO OTHER AGREEMENTS RECOGNIZED**

7. This agreement constitutes the entire contract between the parties hereto and the seller is not liable or bound in any manner by expressed or implied warranties, guarantees, promises, statements, representations, or information pertaining to said premises, made or furnished by the seller or by any real estate broker, agent, employee, servant, or other person representing or purporting to represent the seller unless such are expressly and specifically set forth herein.

#### **PURCHASER'S RIGHT OF ACCESS**

8. The seller shall provide the purchaser with access to the subject premises at any time within forty-eight (48) hours of the closing of title in order to ascertain the condition of the premises, at which time electricity will be available and water service and heating systems will be operative.

#### **PURCHASER'S OBLIGATIONS CONCERNING TITLE**

9. In the event that the report of any title company shows objections and exceptions, the seller shall, upon receipt of written notice of the purchaser of such objections and exceptions to title, have the right, at seller's option, to cure the defect within thirty (30) days of the date on which such notice was received, and the date for the closing shall be adjourned accordingly.

### **SELLER'S OBLIGATIONS CONCERNING TITLE**

10. Seller shall not be required to bring any action or proceeding or otherwise incur any expense to render the title to the premises marketable. The purchaser may, nevertheless, accept such title as the seller may be able to convey, at purchaser's option, without reduction of the purchase price or any credit allowances against the same and without any other liability on the part of the seller.

Seller shall not be responsible for or obligated to pay, in whole or in part, any expenses, fees, discounts, or other charges in connection with the purchasers obtaining a mortgage in connection with the performance of this agreement.

### **PAYMENT REQUIREMENTS**

11. Notwithstanding any reference in the printed portion of this agreement to purchaser delivering certified checks at the time of closing for taxes, recording charges, documentary stamps, transfer tax or other miscellaneous adjustments at closing, purchaser may, at their option, discharge these obligations by regular personal check.

### **DOWN PAYMENT TO BE HELD IN ESCROW**

12. The down payment paid hereunder, shall be held in the escrow account of Kenneth D. Johnson, P.C., attorney at law, the attorney for the seller until closing of title. The down payment will be held in IOLA account number 06 30 000072 of Walden Savings Bank, Two Bank Street, Walden, N.Y. 12586. The escrowee shall be under no liability or obligation except to disburse the said down payment in accordance with the provisions of this contract. All parties hereto agree to hold the escrowee harmless from any costs or expenses in any suit arising out of said escrow.

### **CLOSING DETAILS**

13. If, at the date of closing, there may be any liens or encumbrances which the seller is obligated to pay and discharge, the seller may use any portion of the balance of the purchase price to pay the same, provided the seller shall simultaneously deliver to the purchaser, at the closing of title, instruments in recordable form and sufficient to satisfy such liens and encumbrances of record, together with the cost of recording or filing of such instruments; or, provided that the seller has made arrangements with the title company employed by the purchaser in advance of the closing, seller will deposit with said title company sufficient monies, acceptable to and required by it to insure obtaining and recording the required satisfac-

tions and the issuance of title insurance to the purchaser either free of any such liens and encumbrances, or with the insurance against the enforcement of same out of the insured premises. The purchaser, if request is made within a reasonable time prior to the date of closing of title, agrees to provide at the closing separate certified checks as requested, aggregating the amount of the balance of the purchase price, to facilitate the satisfaction of any such liens or encumbrances. The existence of any such taxes, liens or encumbrances shall not be deemed objections to title if the seller shall comply with the foregoing requirements.

#### **PLACE OF CLOSING**

14. In the event the closing does not take place at the office of the seller's attorney and instead takes place at a location greater than 35 miles from the premises being sold herein, the seller's attorney shall be compensated by the purchaser in an amount of \$150.00 to cover the cost and time of traveling.

#### **LEAD PAINT**

15. Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

16. The Seller and the Purchaser agree that the Purchaser may have early occupancy of the premises being sold herein pursuant to the terms and conditions of an early occupancy agreement attached hereto and made a part hereof.

\_\_\_\_\_  
VILMA LEE HANSEN

\_\_\_\_\_  
DAVID FURMAN

\_\_\_\_\_  
KRISTIN FURMAN

### **EARLY OCCUPANCY AGREEMENT**

**THIS AGREEMENT**, dated the \_\_\_\_\_ day of April, 1999 between VILMA LEE HANSEN (hereinafter referred to as the "Seller") and DAVID FURMAN AND KRISTIN FURMAN (hereinafter referred to as the "Buyer").

### **W I T N E S S E T H :**

**WHEREAS**, the Buyer has contracted to purchase premises located at 38 Beaver Brook Road, Town of New Windsor, County of Orange, State of New York, from the Seller, and

**WHEREAS**, the Buyer desires occupancy of said premises prior to the actual date of closing of title, and

**WHEREAS**, the Seller will permit said prior possession only upon the terms and conditions hereinafter set forth:

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Buyer and Seller agree as follows:

1) The Buyer shall take possession of the premises and occupy the same for themselves and their family at any time after April 1, 1999.

2) The Buyer hereby releases Seller from all liability for injury attendant to the Buyer's occupancy and hereby holds harmless said Seller from any and all claims whatever which may result therefrom, including attorney's fees. In connection with this paragraph, Buyer has obtained insurance naming the Seller as an additional insured.

3) The Buyer, prior to occupying the premises, hereby certifies that they have inspected the premises and accepts same AS IS and hereby acknowledges that all terms and conditions of the contract of sale relating to the condition of the premises have been totally and completely complied with by Seller.

4) That in the event of non-performance of the contract by either Buyer or Seller, Buyer shall remove themselves and their possessions from the premises forthwith.

5) During the term of this Agreement, Buyer shall pay rent at the rate of \$1,000.00 per month pro-rated on a daily basis.



6) Buyer shall be responsible for all utilities and maintenance expenses, including but not limited to, telephone, heat, hot water, and electricity.

7) Buyer agrees not to make any material alterations to the premises during the term of this Agreement.

8) During the time of occupancy herein, Buyer shall be deemed to be a tenant at sufferance. Buyer hereby waives any right to "notice to terminate" or any other right, laws or regulation which might, in law or equity, apply to such a tenancy. In the event Seller has to evict the Buyer, the Seller shall be compensated by the Buyer for all costs, including reasonable attorney's fees, incurred in the course of said eviction. Further, in the event Buyer does not purchase the premises by September 1, 1999 Buyer shall vacate the premises as of said date.

9) Buyer hereby agrees that the down payment made pursuant to the contract shall act as security for their obligations herein. Seller's attorney is authorized to "invade" said down payment in the event it is necessary to use same as security.

**IN WITNESS WHEREOF**, the parties have hereunto set their hand and seal this \_\_\_\_\_ day of April, 1999.

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Purchaser

\_\_\_\_\_  
Purchaser